

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33410 of 2022

Mary Sahoo

....

Petitioner

Mr. N.K. Mishra, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. A. Behera, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

12.12.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Government Advocate.
3. The present writ application has been filed with the following prayer:

“It is, therefore, prayed that this Hon’ble Court may be graciously pleased to admit this writ petition and issue notice to the Opp.Parties requiring them to show cause as to why the writ petition shall not be allowed and if the Opp. Parties fail to show cause or show insufficient cause, may be pleased to allow the writ petition by holding the Petitioner to be entitled to be issued appointment under compassionate grounds by quashing Annexure-6;

And this Hon’ble Court may be pleased to pass

any other order or orders as may be deemed fit and proper in the facts and circumstances of the case;”

3. It is submitted by the learned counsel for the Petitioner that the father of the present Petitioner namely, late Sidhartha Sital Sahoo while he was working as Junior Accountant in office of the Commandant, OSAP 4th Bn., Rourkela died in harness on 03.05.2018. Thereafter the Petitioner as the legal heir applied for appointment under OCS (Appointment under Rehabilitation Assistance) Rules, 1990 on 17.06.2020 along with necessary documents. However, her application was taken up by the authority and rejected vide order dated 01.08.2022 under Annexure-6 by applying the Rehabilitation Assistance Rule, 2020. It is submitted by the learned counsel for the Petitioner that in view of the law laid down by the Hon’ble Supreme Court in **Malaya Nanda Sethy-v.- State of Orissa and others, 2022(II) OLR (SC) 1** application should have been considered under the 1990 Rules.

4. Learned Additional Government Advocate on the other hand submits that the authorities have applied the Rule in vogue in course of consideration of the application. Therefore, the authorities while passing Annexure-7 have not committed any illegality. However, he does not dispute the law laid down in the case of **Malaya Nanda Sethy** (Supra).

5. Considering the aforesaid submissions made by the learned counsel for the respective parties and after keeping in view the law laid down by the Hon’ble Supreme Court in **Malaya Nanda Sethy** (supra), this Court disposes of the writ application at the stage of admission by setting aside the impugned order dated 01.08.2022 under Annexure-6. Further, the matter is remanded back to the

Opposite Party No.2 to consider the matter afresh in the light of the law laid down by the Hon'ble Supreme Court in the case of **Malaya Nanda Sethy –v.-State of Orissa and others, 2022(II) OLR (SC) 1**, and to take a decision within a period of three months from the date of production of certified copy of this order. The authorities are directed to act on production of certified copy of this order.

6. With the aforesaid observation and direction, the writ application stands disposed of.

Urgent certified copy of this order be granted on proper application.

(*A.K. Mohapatra*)
Judge

