

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33842 of 2022

Lalit Kumar Nath

....

Petitioner

Mr. K. Mohanata, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. B.P. Tripathy, AGA

**CORAM:
JUSTICE A.K. MOHAPATRA**

ORDER

19.12.2022

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 appearing for the State-Opposite Parties.
 3. The present writ petition has been filed by the Petitioner with the following prayers:-

“Therefore, it is respectfully prayed that this Hon’ble Court may graciously be pleased to admit this writ application issue Rule NISI for calling upon the Opp. Parties particularly opp. Party No.4 for show cause as to why the direction will not be issued for providing Compassionate Appointment to the petitioner under Rehabilitation Assistance Scheme. This Hon’ble Court may make its rule absolute if no Show Cause or insufficient show cause is filed by the said opp. Parties. This Hon’ble court may hear the matter from the parties and direct in the writ of mandamus to the opp. Party No.4 for providing Compassionate Appointment under Rehabilitation Assistance Scheme to the petitioner immediately by setting aside the order dated 30.10.2021 for the interest of justice.

It is further prayed that this Hon’ble Court may be pleased to direct any other appropriate

direction(s) or pass any other suitable orders or pass any other appropriate writ/writs as this Hon'ble Court may deem fit just and proper."

4. It is submitted by learned counsel for the Petitioner that the father of the Petitioner, namely, Abhimanyu Nath while working as an Agriculture Overseer died in harness on 01.04.2017 leaving behind his wife, daughter and the present Petitioner. It is further submitted that the Petitioner had applied for appointment under Rehabilitation Assistance Scheme with no objection certificate from the other legal heirs, but the same was rejected by the authorities vide order dated 30.10.2021 under Annexure-3 on the ground that the application submitted by the Petitioner is not signed by him.

5. Learned counsel for the State, on the other hand, submits that since the application submitted is incomplete application, the same has not been considered by the authority. Therefore, the Petitioner should have file a complete application afresh and in such event, the same shall be considered in accordance with law and rules prevalent at the time of death of the deceased Government employee.

6. Considering the submissions made by the respective parties and the background facts of the present case, this Court disposes of the writ petition at the stage of admission by setting aside the impugned order 30.10.2021 passed by the Opposite Party No.4-Chief District Agriculture Officer, Mayurbhanj, Baripada under Annexure-3. Further, the Petitioner is directed to approach the Opposite Party No.4 by filing a fresh complete application along with supporting documents within four weeks from today and in that event such complete application is filed before the Opposite Party No.4, the Opposite Party No.4 shall consider and dispose of the same within two months thereafter by taking into consideration the law laid down

by the Apex Court in the case of *Malaya Nanda Sethy vrs. State of Orissa and others*, reported in *2022(II) OLR(SC)-1* as well as the OCS (RA) Rules, 1990 by passing a speaking and reasoned order and the decision so taken thereof shall be communicated to the Petitioner within two weeks thereafter.

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

(*A.K. Mohapatra*)
Judge

Debasis

