

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.34428 of 2022

Dasami Bara

....

Petitioner

Mr. R.N. Mohanty, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. B. Pr. Tripathy, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

21.12.2022

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 counsel for the State. Perused the record.
 3. The present writ petition has been filed by the petitioner with the following prayers:

“Therefore, in the light of issues raised, arguments advanced, it is humbly prayed that this Hon’ble Court may graciously be pleased to:

 - a. Admit the writ petition and issue notice to the Opp. Parties by calling upon them to file show cause and call for the records; and
 - b. Issue writ in the nature of Mandamus directing the O.P. No.02 to dispose of representation dtd.28.09.2022; and
 - c. Pass any other Writ/Writs and order(s) / direction(s) that your Lordships may deem fit and proper in the interest of justice, equity and good conscience.”
 4. It is further submitted by learned counsel for the petitioner that although the petitioner has filed representation dated 28.09.2022 under Annexure-14 before the General Manager, Personal, SAIL, Rourkela Steel Plant, Rourkela-Opposite Party No.2, the same is still

pending before the said Opposite party and the said Opposite Party has not taken any decision as of now.

5. Learned counsel for the State submits that he has no objection, if a direction is given to the authorities to consider the grievance petition of the petitioner in accordance with law within a stipulated period of time.

6. Learned counsel for the petitioner further submits that let the Authority be directed to consider the case of the petitioner in the light of the judgment delivered by the Hon'ble Supreme Court of India in the case of *Indian Bank vs. Promila*, reported in (2020) 2 SCC 729, *State of Madhya Pradesh vs. Amit Shrivastava*, reported in (2020) 10 SCC 496, Hon'ble Apex Court in the case of *The Secretary to Govt., Department of Education (Primary) & Ors. vs. Bheemesh Alias Bheemappa (Civil Appeal No.7722 of 2021)* as well as in the case of *State of Madhya Pradesh vs. Ashish Awasthi*, reported in 2021(II) OLR (SC) 1072. It is also submitted that basing on the said order passed by the Hon'ble Apex Court the petitioner *Malaya Nanda Sethi vrs. State of Odisha and others*, reported in 2022(II) OLR(SC) 1 has been provided with the appointment vide order dated 13.06.2022 of the Government in the Excise Department. Moreover, it is also submitted that when similar issue was raised before the Hon'ble Apex Court in Special Leave (C) No.12740 of 2022. Hon'ble Apex Court relying on the decision of *Malaya Nanda Sethi vrs. State of Odisha and others* remanded the matter for consideration in the light of the judgment passed in the aforesaid Civil Appeal No.4103 of 2022.

10. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this Court observes that looking to the date of death of the deceased and involving whom the

appointment under the Rehabilitation Assistance Scheme is sought for and the date of application for appointment under the Rehabilitation Assistance Scheme, this Court directs that the General Manager, Personal, SAIL, Rourkela Steel Plant, Rourkela-Opposite Party No.2 to look into the grievance of the Petitioner under Annexure-4 and dispose of the same in accordance with law, taking into account the judgments in the case of *Indian Bank vs. Promila*, reported in (2020) 2 SCC 729, *State of Madhya Pradesh vs. Amit Shrivastava*, reported in (2020) 10 SCC 496, *Hon'ble Apex Court* in the case of *The Secretary to Govt., Department of Education (Primary) & Ors. vs. Bheemesh Alias Bheemappa (Civil Appeal No.7722 of 2021)* as well as in the case of *State of Madhya Pradesh vs. Ashish Awasthi*, reported in 2021(II) OLR (SC) 1072, *Malaya Nanda Sethi vrs. State of Odisha and others* wherein the Apex Court in a clear and categorical term observed that the policy prevalent at the time of death of the deceased employee is only to be considered and not the subsequent policy and pass a speaking and reasoned order by giving appointment to the Petitioner under the Rehabilitation Assistance Scheme, subject to availability of vacancies, within a period of two months from the date of production of certified copy of this order. Decision so taken be communicated to the Petitioner within a period of two weeks thereafter.

7. With the aforesaid observation/direction, the writ petition is disposed of.

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