

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.34929 of 2022

Rajesh Kumar Mohapatra

Petitioner
Ms. D.N.Rath, Advocate

-versus-

State of Odisha and others

Opp. Parties
Mr. T.K.Patnaik, A.S.C..

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

22.12.2022

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 writ petition and documents annexed thereto.
3. The present writ petition has been filed by the petitioner with a prayer to quash the order dated 27.07.2020 and 17.07.2021 passed by Opposite Party Nos. 2 & 3 under Annexure-7 and 8 and to direct the Opposite parties to appoint the petitioner under the OCS(R.A.) Rules, 1990.
4. It is submitted by learned counsel for the petitioner that the father of the petitioner, Late Rama Narayan Mohapatra, who was working as Statistical Assistant, died in harness on 01.09.1992. Thereafter, the petitioner submitted an application for appointment under the Rehabilitation Assistance Scheme Rules, 1990 on 02.11.2007. Further, it is submitted by learned counsel for the petitioner that the application of the petitioner has been rejected by the authorities by the impugned order dated 27.07.2020 under Annexure-7 and 17.02.2021 under Annexure-8 on the ground that the petitioner should apply under the

Odisha Civil Services (Rehabilitation Assistance) 2020 Rules. In this context, learned counsel for the petitioner relies upon the judgment rendered by the Hon'ble Supreme Court in the case of ***Malaya Nanda Sethy vrs. State of Orissa and others*** : reported in **2022(II) OLR(SC)-1**. Relying the aforesaid judgment, learned counsel for the petitioner submits that the application of the petitioner needs to be considered in the judgment rendered by the Hon'ble Supreme Court.

5. Learned counsel for the State, on the other hand, submits that during the pendency of the application submitted by the petitioner for appointment on compassionate ground, a new rule was enacted in the year 2020. Therefore, the authorities, by referring to the new rules, have returned the application to the petitioner. However, he does not dispute on passing the impugned order, authorities have not considered the law laid down in the case of the ***Malaya Nanda Sethy***(supra). He further 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. Considering the submissions made by the respective parties, this Court deems it proper to dispose of the application at the stage of admission for appointment by setting aside the impugned order dated 27.07.2020 and 17.02.2021 under Annexure-7 & 8 and further remand the matter back to the Director, Health Service-Opposite Party No.2 to consider the application of the petitioner afresh in the light of the law laid down of the Hon'ble Supreme Court in the case of ***Malaya Nanda Sethy***(supra) and the petitioner is directed to approach to the Opposite Party No.2 along with certified copy of this order within a period of two weeks from today. On appearance of the petitioner, Opposite party No.2 shall do well to consider the case of the petitioner and dispose of the matter by passing a speaking and

reasoned order in accordance with law within a period of two months. Any decision so taken on the same shall be communicated to the petitioner within a period of ten days thereafter.

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

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

(A.K. Mohapatra)
Judge

RKS

