

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35059 of 2022

Anil Ku. Jena

..... Petitioner
Mr.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 to the writ petition.
3. The present writ petition has been filed by the petitioner with a prayer for a direction to the Opposite Parties to issue appointment order to the Petitioner under the Rehabilitation Assistance Scheme as per the Rule that was in force at the time of death of the deceased Government employee.
4. It is submitted by learned counsel for the petitioner that the father of the petitioner, Late Santosh Kumar Jena while working as Excise Constable expired on 12.07.2012. Thereafter, the petitioner submitted an application for appointment under the Rehabilitation Assistance Scheme in the year 2013 for the post of Junior Clerk. The mother of the Petitioner and the younger brother of the Petitioner filed an affidavit stating therein that they have no objection if appointment is given to the Petitioner under Rehabilitation Assistance Scheme. It is also submitted by the learned counsel for the Petitioner that in the year 2018 the

Superintendent of Excise, Berhampur, Opposite Party No.5 wrote a letter to the Excise Commissioner, Opposite Party No.3 for consideration of appointment of the Petitioner under Rehabilitation Assistance Scheme. But to the misfortune of the Petitioner, his application has not been considered as yet and the same is pending with the authority. 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 light of 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, since some required information was to be obtained from different departments relating to the Petitioner, there was delay in considering the application for appointment under compassionate ground. He further submits that he has no objection, if a direction is given to the authorities to consider the application of the petitioner in accordance with law within a stipulated period of time.

6. Considering the submissions made by the respective parties, this Court to disposes of the application of the Petitioner for appointment under Rehabilitation Assistance Scheme at the stage of admission by directing the Excise Commissioner, Odisha, Opposite Party No.3 to consider the application of the Petitioner and issue appointment order to the Petitioner under the Rehabilitation Assistance Scheme as per the Rule that was in force at the time of death of the deceased father of the Petitioner in the light of the law laid down of the Hon'ble Supreme Court in the case of *Malaya*

Nanda Sathy(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.

RKS

