

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35732 of 2022

Udit Narayan Nayak

....

Petitioner

Mr. Manas Chand, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. S. Mishra, A.S.C

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

23.12.2022

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. 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 to quash the order dated 29.06.2021 issued by the President, Bhawanipatna Central co-operative Bank Ltd. under Annexure-5 and to direct the Opposite parties No.2 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 Netrananda Nayak, who was working as Junior Supervisor under the Chief Executive Officer, Bhawanipatra, Central Cooperative Bank, Ltd., Opposite Party No.3 died on 08.03.2007 leaving behind his legal heirs. It is also submitted by the learned counsel for the Petitioner that the Petitioner in the year 2021 applied for appointment under Rehabilitation Assistance Rules, 1990. It is contended that though the father of the Petitioner was expired on 08.03.2007 till December, 2021, the Opposite Parties have not

considered the case of the Petitioner. Lastly, the Opposite Party No.3 illegally rejected the claim of the Petitioner for appointment under R.A. Scheme without considering his claim as per prevalent Rule. 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 and State of Madhya Pradesh v. Ashish Awasti, 2021(II) OLR (SC) 1072..** 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 Additional Government Advocate, 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 sought for a clarification which is not illegal. 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 29.06.2021 under Annexure-5 and further remand the matter back to the Chief Executive Officer, Bhawanipatra, Central Cooperative Bank, Ltd., Opposite Party No.3 to consider the application of the petitioner afresh in the light of the law laid down by 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.3 along with certified copy of this order within a period of two weeks from today.

On appearance of the petitioner, Opposite party No.3 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

