IN THE HIGH COURT OF ORISSA AT CUTTACK

WA No.2154 of 2023

CNR No. ODHC010680022023

State of Odisha and another …. ***Appellants***

Ms. Suman Pattanaik, AGA

-Versus-

Surya Abhisek and another …. ***Respondents***

Mr. Bishal Baibhav, Advocate for Respondent No.1

CORAM:

HON'BLE DR. JUSTICE SANJEEB K PANIGRAHI

AND

HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

Order No. **20.11.2026**

04.

1. This matter is taken up through hybrid arrangement.

2. Aggrieved by order dated 21st December, 2022 passed by the learned Single Bench of this Court in W.P.(C) No.34790 of 2022 exercising extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India, this intra-Court appeal has been preferred under Clause 10 of the Letters Patent constituting the High Court of Judicature at Patna read with Article 4 of the Orissa High Court Order, 1948 and Rule 6 of Chapter-III and Rule 2 of Chapter-VIII of the Rules of the High Court of Orissa, 1948, wherein the issue raised was whether the respondent no.1 is entitled to be considered for appointment under the Odisha Civil

Services (Rehabilitation Assistance) Rules, 2020 by virtue of which the Odisha Civil Services (Rehabilitation Assistance) Rules, 1990 stood repealed.

3. Learned Additional Government Advocate appearing for the State-appellants submitted that the father of the respondent, namely, late Durga Charan Jena, while working as a Reader in Political Science in Swami Vivekananda Memorial (SVM) College, Jagatsinghpur, passed away on 25th October, 2010 due to heart stroke leaving behind his son (present respondent no.1), who was about 7 years and his wife, who was about 52 years.

3.1. Since the mother of the respondent is a homemaker, she wrote a letter dated 16th August, 2017 to the Director, Higher Education, Odisha, Bhubaneswar to consider appointment of the respondent no.1 upon turning major under the Orissa Civil Service (Rehabilitation and Assistance) Rules, 1990[1], which stood rejected *vide* order dated 21st October, 2022 by assigning reason that the Odisha Civil Services (Rehabilitation Assistance) Rules, 1990 has been superseded by the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020, and the latter Rules

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[1] Rule 9(7) of the Odisha Civil Services (Rehabilitation Assistance) Rules, 1990 lays down as follows:

"(7) If at the time of death of the Government servant, there is ward who is minor and who alone is available in the family of the deceased Government servant for employment, he/she shall apply for job under these rules on attaining the age of eighteen years and in no case beyond three years from the date of attaining the age of eighteen years."

of 2020 does not cover "the legal heirs of the deceased employee of Non-Government Aided Colleges of the State".

3.2. Challenging the same, the respondent no.1 approached this Court by way of filing W.P.(C) No.34790 of 2022, which was disposed of *vide* order dated 21st December, 2022 by the learned Single Bench and directed the authority concerned to consider the case of the respondent no.1 in the light of the judgment of the Hon'ble Supreme Court in the case of *Malaya Nanda Sethy Vrs. State of Orissa and others, (2022) 4 SCR 707 = 2022 INSC 617* within a period of three months from the date.

3.3. Being aggrieved by the order dated 21st December, 2022, the writ appeal has been filed by the State of Odisha, represented through Principal Secretary, Department of Higher Education and the Deputy Director, Department of Higher Education.

4. Learned counsel appearing for the respondent no.1 submitted that the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020 has suffered an amendment in 2025 called as "the Odisha Civil Services (Rehabilitation Assistance) Amendment Rules, 2025" which is reproduced hereunder:

"*No.11771-GAD-SC-RAS-0033/2024/Gen.*—

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Odisha is pleased to make the following rules further to amend the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020, namely;

1. Short title and commencement.—

(1) These rules may be called the Odisha Civil Services (Rehabilitation Assistance) Amendment Rules, 2025.

(2) They shall come into force on the date of their publication in the Odisha Gazette.

2. In the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020 (hereinafter referred to as the "said Rules"), in Rule 6,—

(i) for sub-rule (9), the following sub-rule shall be substituted, namely:

'(9) (a) All pending applications, relating to death of Government employee prior to the date of commencement of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020 shall be dealt in accordance with the rules ***prevailing on the date of death of Government employee*** *for appointment under Rehabilitation Assistance Scheme:*

Provided that in case the death of Government employee occurred on or after commencement of the Odisha Civil Service (Rehabilitation Assistance) Amendment Rules, 2016 and before commencement of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020, shall be governed by the provisions of the Odisha Civil Service (Rehabilitation Assistance) Rules, 1990.

(b) In case the death of Government employee occurred prior to

commencement of the Odisha Civil Service (Rehabilitation Assistance) Amendment Rules, 2016, shall be dealt on the basis of distress certificate available in the existing or original application as per the Odisha Civil Service (Rehabilitation Assistance) Rules, 1990.

(c) In case the death of Government employee occurred on or after commencement of the Odisha Civil Service (Rehabilitation Assistance) Amendment Rules, 2016 and before commencement of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020, the appointing authority shall ascertain the present financial distress of the family by calling for a report from Collector of the district in which the family ordinarily resides, as to whether the family is in financial distress as per the provisions of rule 8 of the Odisha Civil Service (Rehabilitation Assistance) Rules, 1990.

Explanation for the distress certificate prescribed under clause (c).—

The total annual family income from all sources excluding Family pension and temporary increase must not exceed Rs.1,91,000/- (Rupees One Lakh and Ninety-One Thousand) for a family to be in a 'distress condition'.'

(ii) The sub-rule (10) shall be omitted."

4.1. He drew attention of this Court to the letter dated 30th September, 2026 issued by the Principal Secretary to Government of Odisha in General Administration and Public Grievance Department, which reads thus:

"Sub: Clarification regarding certain provisions of the OCS (RA) Rules, 1990 matter regarding.

Government have framed rules from time to time for providing compassionate appointment under the Rehabilitation Assistance Scheme to eligible members of the family of a deceased Government servant. It is observed that many Departments are referring files seeking clarification on various provisions relating to appointment under the OCS (RA) Rules, 1990. Further, grievance petitions have also been received from applicants whose cases relate to the applicability of the relevant OCS (RA) Rules, 1990 to their cases. Therefore, it is felt necessary to issue some clarifications relating to the OCS (RA) Rules, 1990 as below:

1. Applicability of Rules prevailing on the date of death.—

The Supreme Court of India and High Court of Odisha have directed to consider the RA application as per provisions of the OCS (RA) Rules prevailing as on the date of death of the Government servant. Accordingly, the Odisha Civil Services (Rehabilitation Assistance) Amendment Rules, 2025 came into force with the amendment of the provision of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020 to deal with pending RA applications as per the prevailing Rules at the time of death.

Accordingly, the OCS (RA) Rules, 1990 shall be applicable to the cases relating to Government servants

who died during the period from 24.09.1990 [i.e. the date of commencement of the OCS (RA) Rules, 1990] to 16.02.2020 [i.e. the date immediately preceding the date of commencement of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020].

2. *Age limit for appointment under Rehabilitation Assistance Scheme.—*

The minimum and maximum age limit prescribed for appointment under the Rehabilitation Assistance Scheme shall be governed by the general principles/ rules applicable to the age limit for such appointment. In respect of a minor child who was the only eligible ward available in the family of the deceased Government servant for the employment at the time of death can apply for job on attaining the age of eighteen years and in no case beyond three years from the date of attaining the age of eighteen years.

However, in exceptional cases, the maximum age limit may be relaxed by the competent authority.

3. *Change in marital status of an applicant.—*

The eligibility of an applicant shall be considered with reference to the information furnished at the time of submission of the application. Accordingly, where the daughter of the deceased Government servant was unmarried at the time of submission of the application and thereby came within the purview of the definition of "family" under the OCS (RA) Rules, 1990, her subsequent change in marital status shall not, by itself, render her ineligible for consideration of her application under the said Rules.

4. *Applicability to specified categories of employees.—*

The provisions of the OCS (RA) Rules, 1990, had been extended to Teaching and Non-Teaching Staffs covered under GIA orders-1994 in Aided Educational Institutions of the School & Mass Education Department and Higher Education Department, Work-Charged Employees of the State Government and employees of Public Sector Undertakings under the State Government. Therefore, family members of employees of these categories of Institutions/Organisations, are eligible for appointment under the OCS (RA) Rules, 1990.

All concerned Departments/Authorities are hereby instructed to take necessary action for expeditious disposal of such old pending cases, within a period of three months from the date of issue of this clarification and upload the status of disposal in the Portal to be developed by CMGI soon for the purpose."

5. Smt. Suman Pattanaik, learned Additional Government Advocate fairly submitted that the controversy has been set at rest in the case of *State of Odisha Vrs. Jita Luha, (2025) 5 SCR 2799,* wherein it has been observed as follows:

"11. Learned Advocate General appearing for the State has assured that the officers of the State shall apply the notification dated 04.04.2025 referred above mutatis mutandis in the case of all the respondents and the dispute regarding the grant of appointment under the 2025 rules as applicable on the date of death would be considered in terms of the directions, if any, issued by this Court.

12. After hearing the learned Advocate General and learned advocates appearing for respondents and bestowing our consideration, in our view, the directions issued in the order impugned finds force from the amended rules

notified on 04.04.2025 referred above. Therefore, we are inclined to maintain the order of the High Court and to dispose of all these appeals with the following directions:

(i) The respondents are at liberty to submit an application, if not already submitted, within a period of twelve weeks, to the jurisdictional authorities along with requisite documents as specified in the notification dated 04.04.2025.

(ii) In the cases where application has already been submitted and any additional documents are required to be submitted, the same be furnished to the authority in reference to their pending application or in reference to the demand, made by the authority if any, within the same period of twelve weeks.

(iii) On receiving the applications as mentioned above, the appropriate authority shall examine the cases of individual respondent in terms of the 2025 amended rules and pass appropriate order. It is needless to say that the applications, so filed, shall not be rejected on technical grounds and shall be considered sympathetically strictly in accordance with the Rules.

(iv) In case the post is available, the competent authority shall pass an order of appointment, otherwise the procedure as prescribed in the relevant rules shall be followed and thereafter the respondents be permitted to join their duties within the time specified.

(v) It is also clarified that the appointment already granted by the Government extending the benefit of Rehabilitation Assistance Scheme shall remain

unaffected by the directions as contained hereinabove.

(vi) *In case the claim of individual respondent is rejected by the authorities, they are at liberty to take recourse of law as is permissible.*

(vii) *The directions as issued hereinabove shall apply mutatis mutandis in all pending cases. The aspirants are not required to take recourse until their claim is rejected. Pending writ petitions before High Court, if any, shall also be disposed of in accordance with the directions issued above.*

(viii) *Accordingly, the present appeals are disposed of. Pending applications, if any, shall also stand disposed of."*

5.1. Smt. Suman Pattanaik, learned Additional Government Advocate also referred to decision of this Court rendered in the case of *State of Odisha Vrs. Saroj Kumar Pradhan, W.A. No.130 of 2025, vide Judgment dated 26.08.2025* to submit that the respondent, as application for appointment in question was filed on 16.08.2017 and death of his father was on 25.10.2010, the provisions of the Odisha Civil Services (Rehabilitation Assistance) Rules, 1990, would apply in the present case; nonetheless, she submitted that the rejection of application of the respondent was not solely on the applicability of Rules. She elaborated on her submission to contend that the rejection of application of the respondent was also on the ground that the Rules do not extend the benefit of appointment on rehabilitation assistance to the

employee, who died in harness while performing his duty in the Non-Government Aided College.

6. Heard learned counsel for the parties.

7. Considering the submissions made by the learned counsel for the parties and in view of the amendment of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020 by virtue of the Odisha Civil Services (Rehabilitation Assistance) Amendment Rules, 2025 and letter dated 30th September, 2026, this Court, therefore, does not feel it expedient to disturb of the order dated 21st December, 2022 of the learned Single Bench passed in W.P.(C) No.34790 of 2022.

8. Since the Government of Odisha having taken pragmatic approach, it needs no clarification, but to say that while considering the application for appointment adhering to the provisions of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020 as amended in the year 2025, shall also decide the applicability of such Rules to the employee who died while serving in a Non-Government Aided College. The authority concerned shall also take into consideration the aforesaid discussions made above and pass appropriate order in accordance with law within a period of three months from date.

9. With the above observations and directions, the writ appeal along with pending interlocutory application(s), if any, stands disposed of.

(Dr. Sanjeeb K Panigrahi)
Judge

(Murahari Sri Raman)
Judge

Laxmikant

Signature Not Verified
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Signed by: LAXMIKANT MOHAPATRA
Designation: Senior Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 25-Nov-2026 17:59:50