IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.2784 of 2024

State of Odisha & Others …. **Appellants**

Mr. S.B. Mohanty, AGA

-Versus-

Jayakrushna Mohapatra & Others …. **Respondents**

Mr. P.K. Mohapatra, Advocate

CORAM:
JUSTICE KRISHNA SHRIPAD DIXIT
JUSTICE CHITTARANJAN DASH

ORDER

Order No. **08.04.2026**
02.

Learned counsel- Mr. Prafulla Kumar Mohapatra enters appearance for the Respondent by filing vakalatnama in Court, The same is taken on record.

In this Intra-Court appeal, the State and its officials have called in question a learned Single Judge's order dated 15.11.2022, whereby Respondent-employee's W.P.(C) No.29927 of 2022 having been favoured, the following relief has been accorded:

> *"7. Having heard learned counsel for the parties and considering the facts and circumstances of the case, this Court observes that the order dated 17.08.2019 and 02.03.2021 under Annexures-8 and 9 are not sustainable in law and therefore, the same are hereby quashed and the matter is remanded to the Principal Secretary, Revenue and Disaster Management Department, Odisha, Bhubaneswar (Opposite Party No.1) and 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 Principal Secretary, Revenue and Disaster Management Department, Odisha, Bhubaneswar (Opposite Party No.l) to look into the grievance of the Petitioner under Annexure-12 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 Shrivas****, 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(11) OLR (SC) 1072****, 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 three 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."*

2. Learned counsel appearing for the Respondent-employee tells us that the subject matter of this appeal is substantially similar to the one in W.A. No.2099 of 2024 between State of Odisha v. Biraja Choudhury disposed off by this very Bench vide order dated 09.03.2026.

3. Despite some submissions, learned AGA-Mr. Mohanty is not in a position to differentiate the fact matrix of the cognate decision from that of the appeal at hands. In Paragraphs 3, 4 & 5 of the cognate judgment, the following observations appear:

> *"3. Be the above orders as they are. Both the sides in all fairness submit that now vide notification dated 4th April, 2025, a suitable amendment is effected to the provisions of Rule 2 to Odisha Civil Services (Rehabilitation Assistance)*

Rules, 2020. The amended provision to Rule 6 of the said Rules has the following text:

"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."

4. Learned counsel appearing for the Respondents submits and we agree that his clients will be satisfied if their case is considered under the new legal regime as reflected in the subject notification. Learned Additional Government Advocate too agrees that the case of Respondents shall be considered under the amended Rules within an outer limit of three months. Both the sides agree that all contentions need to be kept open for being treated by the competent authority under the amended provisions of the subject extant rules. This is fair. It hardly needs to be stated that since the case would be considered afresh, all records that effected rejection of claim of the respondents are hereby voided.

5. In view of the above, Appeal is disposed off. We make it clear that in the event the matter is not decided, as undertaken before us, within the specified period, the competent authority, who has to take the decision, shall pay ₹1,000/- per day to each of the respondents for delay for the first month and ₹2,000/- for the period of next following."(sic)

The above apart, the appeal has been filed after brooking a long delay of 659 days with no plausible explanation as we found out

from the application in I.A. No.7285 of 2024 supported by affidavit. The sages of law say that law and Courts will not come to the aid of sleepy and tardy. That applies to this appeal.

In the above circumstances, this appeal is also disposed off, in terms of the cognate judgment referred to above, mutatis mutandis.

Now, no costs.

Web copy of this order to be acted upon by all concerned.

(Krishna Shripad Dixit)
Judge

(Chittaranjan Dash)
Judge

Madhusmita

Signature Not Verified
Digitally Signed
Signed by: MADHUSMITA MALLICK
Designation: Jr. Stenographer
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 09-Apr-2026 10:13:44