



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.8189 of 2025

Ajit Kumar Muduli

.....

Petitioner

Represented By Adv. -
Ranjit Samal

-versus-

1) State Of Odisha

.....

Opposite Parties

2) Engineer In Chief, Nirman Soudha

Represented By Adv. –

3) Addl. Chief Engineer, Mechanical
Circle

Mr. A.Pati, A.S.C.

4) Supertending Engineer, Mechanical
Circle

CORAM:

**THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA**

ORDER

Order No.

24.03.2025

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 Standing Counsel for the State-Opposite Parties. Perused the writ application as well as documents annexed thereto.
3. The Petitioner has filed the present writ application with the following prayer:

*“It is therefore prayed that this Hon’ ble Court may
be graciously pleased to:-*

I) allow the writ application;

*II) Issue notice to the Opp. Parties and call for the
records;*

*III) quash the rejection Order No.1315 dt. 12.06.2024
issued by the Superintending Engineer Mechanical (R & B)
Division, Bhubaneswar, the Opp.Party No.4 under
Annexure-7 Series;*

IV) direct the Opp. Party No.4 to issue the appointment



order against the petitioner under Orissa Civil Service (Rehabilitation Assistance Scheme) Rules, 1990 within a specific time limit fixed by this Hon' ble Court;

And pass such other or further order or orders as the Hon' ble Court may deem fit and proper to the facts and circumstances of the case."

4. It is stated by the learned counsel for the petitioner that the father of the petitioner, namely one late Santosh Kumar Muduli, was initially appointed as Helper on 11.10.1991, in the Office of Executive Engineer, Mechanical (R&B) Division, Bhubaneswar. While working as such the father of the petitioner died in harness on 18.04.2019 leaving behind his legal heirs including the present petitioner. Learned counsel for the petitioner further contended that since the financial condition of their family was distressful, the Petitioner, with the consent of the other legal heirs, submitted an application for appointment on compassionate ground on 26.08.2019 under the O.C.S. (RA) Rules, 1990. Thereafter, the application of the petitioner was forwarded to the office of the Superintending Engineer, Mechanical (R & B) Division, Bhubaneswar on 06.03.2020.

5. He further contended that while such application was pending, the petitioner was asked to submit his application under the O.C.S.(RA) Rules, 2020 vide letter dated 08.03.2021. The petitioner without realising the consequence of the same and with a bonafide belief that his case will be case considered, submitted an application under the O.C.S.(RA) rules, 2020 on 08.03.2021. However, such application was rejected under the O.C.S. (RA) Rules, 2020 vide order dated 15.07.2021. Challenging the aforesaid rejection order dated 15.07.2021, petitioner approached this Court earlier by filing W.P.(C) No.24389 of 2021. The said writ application was disposed of vide order dated 02.02.2023 by quashing the impugned rejection



order dated 15.07.2021 with a further direction to the Opposite Parties to consider the case of the petitioner under the O.C.S. (RA) Rules, 1990.

6. Thereafter, the petitioner again approached the Opposite parties along with a copy of order dated 02.02.2023. The Opposite Party No.3 again rejected the claim of the petitioner for appointment on compassionate ground vide order dated 12.12.2023, on the ground that the family of the present petitioner was not in a distressful condition at the time of the death of the government employee.

7. Subsequently, the petitioner approached this Court by challenging rejection order dated 12.12.2023 by filing W.P.(C) No.5780 of 2024, which was disposed of vide order dated 14.03.2024 by this Court with a direction to the Opposite Parties to consider the case of the petitioner for appointment on compassionate ground under the O.C.S. (RA) Rules, 1990 by taking into consideration the judgment of the Hon'ble Supreme Court in *Suchitra Bal vs. State of Odisha* in *W.P.(C) No.2081 of 2021* decided on 27.06.2023 as well as *Bindusagar Samantaray vs. State of Odisha and Ors.* by a Division Bench of this Court in *W.A.No.810 of 2021* and in the case of *Biswajit Swain vs. State of Odisha and others* in *W.P.(C) No.5214 of 2021*. Additionally, this Court would also like to refer to the judgment of the Hon'ble Supreme Court in the case of *Malaya Nanda Sethy v. State of Orissa and others*: reported in *2022(II) OLR (SC)-1* within a period of two months from the date of communication of a copy of order dated 14.03.2024.

8. Learned counsel for the petitioner at this juncture contended that after disposal of the second writ application on 14.03.2024, the petitioner again approached the Opposite parties to consider his case for appointment on compassionate ground under the O.C.S. (RA)



Rules, 1990, as has been directed by this Court. Taking into consideration the judgment referred to hereinabove. However, the Opposite Parties vide order dated 12.06.2024, under Annexure-7, again rejected the prayer of the petitioner for appointment on compassionate ground. Being aggrieved by such conduct of the opposite parties, the petitioner has again approached this Court for the third time by filing the present writ application.

9. Learned counsel for the State on the other hand contended that although he has no instruction in the matter. However, on perusal of the writ application and impugned order dated 12.06.2024 under Annexure-7, it appears that the opposite parties have not committed any illegality in the matter. He further submitted that after disposal of the second writ application on 14.03.2024, the Opposite Party No.4 considered the representation of the petitioner and the same was disposed of by passing a speaking and reasoned order. He further contended that since similar issues are pending before the Hon'ble Supreme Court and an appeal has been preferred by the State-Opposite Parties, awaiting the final decision before the Hon'ble Supreme Court, the representation of the petitioner was disposed of. In such view of the matter, learned counsel for the state submitted that the Opposite Parties have not committed any illegality and that the impugned rejection order under Annexure-7 does not call for any interference by this court.

10. Having heard the learned counsels appearing from both sides, on a careful analysis of the submissions made by them, further keeping in view the factual background of the present case, and taking note of the order passed by this Court in the earlier writ applications, it appears that this Court is required to first examine the impugned rejection order under Annexure-7. On such scrutiny, it is



observed that the Opposite Party No.4, while considering the case of the petitioner, has not taken note of the judgment referred to by this Court in its order dated 14.03.2024 under Annexure-7. Moreover, the application of the petitioner has been disposed of only on the ground that the SLP is pending before the Hon'ble Supreme Court. On a query made by this court, the learned counsel for the State stated that although no interim order has been passed on the matter, however the entire batch of applications has been posted to 21st April, 2025 before the Hon'ble Supreme Court. He also indicated that certain development has also take in place in the meantime with regard to applicability of the rule O.C.S. (RA) Rules. In any event, on a careful scrutiny of order under Annexure-7, this Court found that the same has not been dealt with in terms of the order passed by this Court on 14.03.2024 by taking into consideration the judgment referred to hereinabove. Moreover, this Court in ***Biswajit Swain vs. State of Odisha and others*** in ***W.P.(C) No.5214 of 2021*** has already declared Rule 6(9) of the O.C.S.(RA) Rules, 2020 to be ultra vires of Articles 14 and 16 of the Constitution of India. Since the judgment delivered by this Court in Biswajit Swain's case (*supra*) has not been set-aside by the Hon'ble Apex Court, the Opposite Parties are required to follow the law laid down in the aforesaid judgments till the same is stayed by the Hon'ble Apex court. In such view of the matter, the impugned order dated 12.06.2024 under Annexure-7 is found to be unsustainable in law and that the same is found to be not in conformity with the order dated 14.03.2024 passed by this Court in the second writ application. Accordingly, the impugned order dated 12.06.2024 under Annexure-7 is hereby quashed. Accordingly, the matter is remanded back to the Opposite Party No.4 to consider the case of the petitioner by applying the O.C.S.(RA) Rules, 1990 and further taking in view the judgments referred to hereinabove. Let a



final decision be taken on the application of the petitioner within a period of three months from the date of communication of a certified copy of today's order. Any final decision so taken be communicated to the petitioner within ten days thereafter.

11. With the aforesaid observations and directions, the writ application stands disposed of.

12. Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)

Judge

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