



IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No.8058 of 2025

Sanjeeb Megha

.....

Petitioner

Represented By Adv. -
Dinesh Kumar Panda

-versus-

State Of Odisha & Ors.

.....

Opposite Parties

Represented By Adv. –
B.K. Sahu, A.G.A.

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA

ORDER
24.03.2025

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 Govt. Advocate for the State-Opposite Parties. Perused the Writ Petition as well as the documents annexed thereto.
3. The present Writ Petition has been filed by the Petitioner with the following prayer :

“In view of the facts stated and submissions made above, the Petitioner most humbly prays that the Hon'ble Court may graciously be pleased to issue a writ in the nature of Writ of Mandamus or any other writ/ writs, order/orders, direction/ directions to quash the order of rejection passed by the Opp. Party No.3 dated 20.09.2024 communicated by the Opp. Party No.4 on dated 03.10.2024 vide ANNEXURE-7;

And further direct the Opp. Parties to issue



appointment order in favor of the Petitioner under Rehabilitation Assistance Scheme in a suitable post forthwith following Odisha Civil Services (Rehabilitation Assistance) Rules 1990;

And may further be pleased to pass any other order / orders, direction / directions as deemed fit and proper.”

4. It is stated by learned counsel for the Petitioner that the father of the Petitioner, while working as Attendant, died in harness on 22.04.2018 leaving behind his legal heirs including the present Petitioner. The present Petitioner, with the consent of other legal heirs and after obtaining a death certificate and a legal heir certificate from the competent authority, applied to the competent authority for being appointed on compassionate ground as the financial condition of the family was distressful. Prior to that, the mother of the Petitioner was duly examined by the medical board and the medical board has issued a certificate on 01.02.2019 indicating that the mother of the Petitioner is unfit to discharge any duties. Finally, the Petitioner made an application for appointment on compassionate ground along with relevant documents on 23.02.2019. Learned counsel for the petitioner further contended that the said application which was filed in the year 2019, was kept pending till 2024 which compelled the Petitioner to approach this Court in the 1st round of litigation by filing W.P.(C) No.6576 of 2024. This Court, vide order dated 21.03.2024, disposed of the said writ application by directing the Opposite Parties to consider the case of the Petitioner in the light of the law laid down 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*** as well as by a Division Bench of this Court in ***Suchitra Bal vs. State of Odisha & ors.*** in ***W.P.(C) No.2081 of 2021***



decided on 16.03.2023 and *State of Odisha and others v. Bindu Sagar Samantaray* in W.A. No.810 of 2021 decided on 25.09.2023 and in *Biswajit Swain v. State of Odisha & ors.* in W.P.(C) No.5214 of 2021 decided on 31.10.2023 by this Bench. He further contended that in view of the aforesaid judgments the law is well settled that the Rule applicable at the time of the death of the Govt. employees shall be applicable to consider the application for appointment on compassionate ground of the legal heirs of the deceased govt. employee.

5. Learned counsel for the Petitioner further contended that ignoring the aforesaid settled position of law, particularly, the judgment in *Biswajit Swain*'s case (supra), wherein this Court has already declared the Rule-6 (9) of the OCS (RA) Rules, 2020 as ultra vires, the Opposite Parties vide order dated 20.09.2024 under Annexure-7 rejected the prayer of the Petitioner by referring to the order dated 11.10.2021 of the G.A. & P.G. Dept., Govt. of Odisha as well as order dated 02.03.2021 of the Govt. of Odisha. On a close scrutiny of the impugned rejection order it appears that the competent authority has not taken into consideration the judgments referred to hereinabove. Learned counsel for the Petitioner further contended that without taking into consideration the aforesaid judgments, further without taking note of the order passed by this Court on 21.03.2024 in the earlier writ application, the prayer of the Petitioner has been mechanically rejected by virtue of the impugned order under Annexure-7. As such, it was contended that the impugned rejection order is unsustainable in law.

6. Learned Additional Govt. Advocate on the other hand contended that after disposal of the earlier writ application, the case



of the Petitioner has been duly considered by the Opposite Parties and taking into consideration the orders passed by the G.A. & P.G. Dept., the Opposite Parties have considered and disposed of the prayer of the Petitioner vide order dated 20.09.2024 by passing a speaking and reasoned order. In such view of the matter, learned counsel for the State contended that the Opposite Parties have not committed any illegality, therefore, the impugned rejection order does not call for any interference by this Court at this stage.

7. Having heard the learned counsels appearing for the respective parties as well as on a careful examination of the background facts of the present case as well as keeping in view the legal position as discussed hereinabove, this Court observes that the impugned rejection order dated 20.09.2024 under Annexure-7 to the writ application has been passed without taking into consideration the direction given by this Court in the earlier writ application vide order dated 21.03.2024. It further appears that this Court had categorically directed to consider the case of the Petitioner in the light of the judgments referred to hereinabove. However, on a close scrutiny of the impugned rejection order dated 20.09.2024, it appears that such judgments have not been taken into consideration and merely basing upon orders of the G.A. & P.G. Dept., Govt. of Odisha, the case of the Petitioner has been rejected. In such view of the matter, this Court is of the considered view that the application of the Petitioner has not been considered in its proper prospective by not taking into consideration the order dated 21.03.2024. As such, the impugned order dated 20.09.2024 under Annexure-7 is unsustainable in law. Accordingly, the same is hereby quashed. Further, the matter is remanded back to the Opposite Party No.4 to consider the case of the



Petitioner in the light of the judgments referred to hereinabove as well as the order dated 21.03.2024 in W.P.(C) No.6576 of 2024 within a period of three months from the date of communication of a certified copy of today's order. The representation of the Petitioner shall be disposed of by taking into consideration the above noted judgments and by passing a speaking and reasoned order within the period as has been indicated hereinabove. The final decision so taken by the Opposite Party No.4 be communicated to the Petitioner within a period of ten days from the date of taking such a decision.

8. With the aforesaid observations/ directions, the writ application stands disposed of.

Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

Anil

Signature Not Verified

Digitally Signed
Signed by: ANIL KUMAR
SAHOO
Reason: Authentication
Location: High Court of Orissa
Date: 25-Mar-2025 15:24:43