



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.8193 of 2025

Manoj Kumar Naik

.....

Petitioner

Represented By Adv. -
Rajendra Kumar Sahu

-versus-

State Of Odisha and others

.....

Opposite Parties

Mr. A. Pati, ASC

CORAM:

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

ORDER

24.03.2025

Order No.

01. 1. This matter is taken up through Hybrid mode.
2. Heard learned counsel for the Petitioner as well as learned counsel for the State-Opposite Parties. Perused the writ application as well as the documents annexed thereto.
3. The Petitioner has filed the present writ application with the following prayer:

“In view of the aforesaid facts and circumstances of the case, it is therefore most respectfully prayed that this Hon'ble Court may graciously be pleased to:

A) Issue a Writ of Mandamus quashing the impugned order dated 02.05.2021 (Annexure-1) issued by the Respondent



Deputy Secretary, Department of Water Resources;

B) Direct the Respondents to consider the Petitioner's application under the Odisha Civil Services (Rehabilitation Assistance) Rules, 1990 and grant him compassionate appointment;

C) Issue a writ of mandamus, directing the Respondents to appoint the Petitioner under the Odisha Civil Services (Rehabilitation Assistance) Rules, 1990, in compliance with the judgment dated 31.10.2023 of the Hon'ble Orissa High Court;

D) Pass any such other orders or reliefs as this Hon'ble Court deems just and proper in the interest of justice."

4. It is stated by learned counsel for the Petitioner that the father of the Petitioner, namely Late Laxmidhar Naik, while working as a Peon in the Office of Lift Irrigation Corporation (OLIC)-Opposite Party No.2, died in harness on 17.10.2002 leaving behind his dependant family members including the present Petitioner. After the death of the father of the Petitioner, the Petitioner submitted an application on 31.12.2005 with a prayer for appointment on compassionate ground by taking into consideration the distressful financial condition of the family of the deceased-corporation employee. Initially the application of the Petitioner was rejected vide order dated 12.08.2010 taking the ground of delay in submitting such application. Thereafter, the Petitioner submitted a representation on 09.03.2011 to the Hon'ble Governor of Orissa with a prayer to reconsider his application. The said application was forwarded by the



Hon'ble Governor, Secretariat to the Opposite Party No.1 on 16.03.2011. Finally, on 21.06.2013, the Board of Directors of the Opposite Party No.2, in its 165th Board Meeting, condoned the delay and recommended the case of the Petitioner for appointment on compassionate ground.

5. Learned counsel for the Petitioner at this juncture further contended that the Collector & District Magistrate, Ganjam issued a distress certificate in June, 2016 conforming the fact that the family of the deceased government employee is in a condition of financial distress and as such they require immediate rehabilitation assistance. On 02.08.2016, the application of the Petitioner was sent to the Opposite Party No.1 for final approval. However, the Opposite Party No.1 sought for further clarification vide his letter dated 27.12.2016. While the application was pending on 18.06.2019, the Petitioner was asked to submit certain additional documents. While this was the position, the new Rule, i.e. OCS (RA) Rules, 2020 came into force w.e.f. 17.02.2020. Accordingly, the Petitioner was asked by Opposite Party No.1 to submit a fresh application under the new Rules of the year 2020 vide letter dated 24.05.2021.

6. Learned counsel for the Petitioner at this juncture contended that the entire conduct of the Opposite Parties in asking the Petitioner to submit an application under the new Rules is absolutely illegal and erroneous. In the aforesaid context, learned counsel for the Petitioner by referring the judgment of the Hon'ble Supreme Court in *Malaya Nanda Sethy v. State of Orissa and others* reported in 2022(II) OLR(SC)-1 as well as the judgment of this Court in *Bindusagar Samantaray v. State of Odisha & Ors.* in W.A. No.810 of 2021



decided on 25.09.2023 and in *Biswajit Swain v. State of Odisha and others* in *W.P.(C) No.5214 of 2021* decided on 31.10.2023 and in *Suchitra Bal v. State of Odisha & Ors.* by a Division Bench of this Court in *W.P.(C) No.2081 of 2021* decided on 16.03.2023, contended that since the death of the government employee had occurred much prior to the new Rules came into force, the application of the Petitioner which was kept pending almost more than a decade, has been finally not considered by the Opposite Parties on the ground that the new Rules have intervened in the meantime and under such new Rules the Petitioner's case is to be considered under the provisions of the new Rules. On the aforesaid context, learned counsel specifically referred to the case to *Biswajit Swain's* case (supra) and contended that this Court has already declared the provision of Rule 6(9) of the OCS (RA) Rules, 2020 to be ultra vires to the Constitution. In such view of the matter, learned counsel for the Petitioner further contended that the conduct of the Opposite Parties in asking the Petitioner to submit a fresh application under the new Rules is highly illegal and arbitrary.

7. Learned counsel for the State on the other hand contended that although he has no instruction in the matter, however, by taking into consideration the facts pleaded in the writ petition as well as the documents annexed to the writ petition, it appears that the Petitioner has been asked to submit a fresh application under the OCS (RA) Rules, 2020. He further contended that in view of Rule 6(9) of the new Rules of the year 2020 all pending applications are required to be considered under the new Rules. Accordingly, it was contended that the Opposite Parties have not committed any mistake by asking the Petitioner to submit a fresh application under new Rules. He



further submitted that the application of the Petitioner has not been rejected entirely. Therefore, the present writ petition is devoid of merit and accordingly the same should be dismissed.

8. Having heard the learned counsels appearing for the respective parties, on a careful analysis of their submission and on a close scrutiny of the document annexed to the writ petition, further taking into consideration the factual background of the present case, this Court observes that although the father of the Petitioner died on 17.10.2002, while the OCS (RA) Rules, 1990 was in force, subsequently a recommendation having been made by the Board of Directors of the Opposite Party No.2 on 21.06.2013, the case of the Petitioner has not been considered for such a long time. Keeping in view the aforesaid facts, this Court has no hesitation in coming to a conclusion that the Opposite Parties have not conducted themselves in a judicious manner and injustice has been done to the Petitioner in the present case by sitting over his application for more than a decade. Moreover, in view of the law laid down of this Court as well as the Hon'ble Supreme Court, the application of the Petitioner should have been considered under the OCS (RA) Rules, 1990 instead of the new Rules as has been indicated in letter dated 24.05.2021. Considering the aforesaid facts, further keeping in view the law laid down by the Hon'ble Supreme Court as well as this Court in the above noted judgments, this Court deems it proper to dispose of the writ petition by directing the Opposite Parties to consider the application of the Petitioner for appointment on compassionate ground, strictly in terms of the OCS (RA) Rules, 1990 within a stipulated period of time subject to the Petitioner fulfilling all eligibility criteria and also keeping in view the recommendation of



the Board of Directors dated 21.06.2013 within a period of three months from the date of communication of a certified copy of today's order. The final decision likely to be taken by the Opposite Parties pursuant to today's order shall be communicated to the Petitioner within ten days thereafter.

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

Issue urgent certified copy of this order as per Rules.

(Aditya Kumar Mohapatra)
Judge

S.K. Rout

Signature Not Verified

Digitally Signed
Signed by: SANTANU KUMAR ROUT
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 25-Mar-2025 10:30:35