



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.9113 of 2026

Mrutyunjay Samantaray

.....

Petitioner

Represented by Adv. -
Tukuna Kumar Mishra

-versus-

State Of Odisha and others

.....

Opposite Parties

Represented by Adv. –

Mr. S. Behera, AGA

CORAM:

MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER

07.07.2026

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned Additional Government Advocate for the State-Opposite Parties. Perused the writ application as well as the documents annexed thereto.
 3. By filing the present writ application, the Petitioner has sought for the following prayer:

“It is therefore humbly prayed that Your Lordships would graciously be pleased to admit the Writ application, issue Rule Nisi calling upon the Opp. Parties to show cause as to why appropriate Writ shall not be issued and upon their failure to show cause or showing insufficient cause, may pleased to quash the impugned order of rejection under Annexure-IO and direct the Opp. Party No-3 to appoint the petitioner under Rehabilitation Assistance Scheme and allow the Writ application.

And



This Hon'ble court may also be pleased to issue such other/further order/direction/writ as may be deemed just and proper in the facts and circumstance of the case.

And for which kindness, the petitioner as in duty bound shall ever pray."

4. Learned counsel for the Petitioner at the outset contended that the father of the present Petitioner Bhagyadhar Dalai, who was Government employee died in harness on 31st March, 2003. In support of such contention, learned counsel for the Petitioner referred to the death certificate issued by the competent authority at Annexure-2. He further contended that after the death of his father, the Petitioner obtained the legal heir certificate from the office of the Tahasildar, Dharmasala which indicates that along with the Petitioner there are two others legal heirs are there of deceased-government employee.

5. Learned counsel for the Petitioner further contended that at the time of death of the father of the Government employee, the Petitioner was aged about 13 years, therefore, he was a minor. On attaining the age of majority in the year 2007, the Petitioner submitted an application for being considered for appointment on compassionate ground as per the Odisha Civil Service (Rehabilitation Assistance) Rules, 1990. Such application was initially scrutinized and a list was prepared on 20.05.2013 by the Directorate of Secretary Education Odisha, Bhubaneswar. In the list at Annexure-5, prepared by the Directorate of Secondary Education, the name of the Petitioner finds place against Sl. No.3. Further, referring to the aforesaid list, learned counsel for the Petitioner contended that the person whose name appears at Sl.



No.1, whose father died in the year 1993 and who had applied for appointment on compassionate ground on 31.07. 2007, has been given appointment in the meantime. However, so far the present Petitioner is concerned, learned counsel for the Petitioner submitted that his prayer for appointment has been rejected on the ground of delay alone.

6. While explaining the delay in filing the application for appointment on compassionate ground, learned counsel for the Petitioner contended before this Court that although the father of the present Petitioner namely, Bhagyadhar Dalai died on 31.03.2003, at the relevant point of time the Petitioner was a minor. He further contended that as per the provisions contained in the rules, it is open to the Petitioner to submit his application on attaining the age of majority. Accordingly, the Petitioner, on attaining the age of majority, immediately submitted his application. In the aforesaid regard, learned counsel for the Petitioner, drawing attention of this Court to the provision contained in Rule 9(7) of OCS (RA), Rules, 1990, contended before this Court that at the time of death of the government servant if there is a ward who is a minor and who alone is available in the family of the deceased Government servant for employment he/she shall apply for the job under these rules on attaining the age of 18 years and in no case beyond three years from the date of attaining the age of the 18 years.

7. Referring to the aforesaid provision contained in Rule 9(7) of the O.C.S. (RA) Rules, 1990, learned counsel for the Petitioner contended that the mother of the Petitioner, who is also a legal



heir of the deceased-government employee was not fit to discharge any duties and that the other legal heir namely, Jagdish Samantray, the younger brother of the present Petitioner, was also a minor on the date when the Petitioner made an application for appointment on compassionate ground. He further contended that the Opposite Parties without referring to the provision contained in Rule 9(7) for O.C.S. (RA) Rules, 1990 have illegally rejected the claim of the present Petitioner. Learned counsel for the Petitioner also argued that the Petitioner has discriminated against since in the case of the person appearing at Sl. No.1 of the list at Annexure-5, the delay of almost 14 years in submitting the application has been condoned, whereas in the case of the present Petitioner, which is a genuine cause falling squarely within the parameters of Rule 9(7) of the Rules, has not been considered by the Opposite Parties.

8. In such view of the matter, learned counsel for the Petitioner contended that the impugned rejection order dated 09.03.2026 at Annexure-10 is unsustainable in law. He further contended that earlier the Petitioner has approached this Court by filing W.P.(C) No.15699 of 2025 which was disposed of by this Court vide order dated 13.06.2025 directing the Opposite Parties to consider the case of the Petitioner in terms of the judgment referred to therein. After disposal of the previous writ application, the Petitioner approached the Opposite Parties and the Opposite Party No.3 has rejected the claim of the Petitioner vide order no.3016 dated 05.03.2026, only on the ground of delay.



9. Learned counsel for the State on the other hand contended that although he has no specific instruction in the matter, on perusal of the writ petition it appears that the Petitioner had earlier approached this Court by filing W.P.(C) No.15699 of 2025 which was disposed of vide order dated 13.06.2025. Pursuant to the order passed the previous writ application, the case of the Petitioner was duly considered by the Opposite Party No.3 and since the Opposite Party was not found eligible for such appointment, the Opposite Party No.3 vide order dated 05.03.2026 at Annexure-10 has rejected the prayer of the Petitioner by passing a speaking order. It was also contended by learned counsel for the State, referring order dated 05.03.2026, that the claim of the Petitioner has been rejected on the ground that there was a delay of three years and three months in approaching the authority for appointment on compassionate ground.

10. Learned counsel for the State further submitted that the Petitioner should have approached the competent authority for being appointed on compassionate ground within one year from the death of the deceased Government employee i.e. his father. Learned counsel for the State also contended that since the father of the Petitioner was working in Aided Educational Institution, such institution is not covered under the O.C.S. (RA) Rules, 1990. In the aforesaid context, he also referred to the circular of the School and Mass Education Department, dated 09.09.2020, whereby the benefit which was earlier extended to the Aided Educational Institution has been withdrawn by the State Government. In the aforesaid ground, learned counsel for the State contended that the Opposite Party No.3 has not submitted any



illegality in rejecting the prayer of the Petitioner for appointment on compassionate ground.

11. Having regard to the submissions made by the learned counsels appearing for both sides, on a careful examination of the background facts as well as the documents annexed to the present writ application, this Court observes that the sole question involved in the present writ application is whether the application of the Petitioner was valid under the O.C.S. (RA) Rules, 1990 and, whether the Opposite Party No.3 has committed any illegality by rejecting the prayer of the Petitioner vide the impugned order dated 05.03.2026 at Annexure-10. In order to answer the aforesaid two questions, this Court is required to first examine the application of the Petitioner so as to determine its validity at the relevant point of time.

12. On a careful examination of the pleadings as well as the documents, this Court found that the date of death of the deceased Government employee is not disputed and the same is evident from the death certificate annexed to the writ application as Annexure-2. It is found that the father of the Petitioner namely, Bhagyadhar Dalai, died in harness on 31.03.2003 and the same has been duly certified by the competent authority. So far the present Petitioner is concerned, he is the eldest son of the Government Employee, as is evident from the legal heir certificate issued by the competent authority i.e. Tahasildar, Dharmasala at Annexure-3. Further, it appears that the Petitioner was aged about 13 years at the time of the death of his father in the year 2003. Therefore, such disclosure by a public authority cannot be



disputed by the learned counsel for the State. In view of the aforesaid fact, this Court is of the view that the Petitioner was indeed a minor at the time of death of his father.

13. Consequently, on attaining the age of majority in the year 2007, the Petitioner submitted his application for appointment on compassionate ground. It also appears from the legal heir certificate at Annexure-3 that there are two other legal heirs of the deceased-Government employee besides the present Petitioner. One Shnehalata Samantray, who happens to be the wife of the deceased-government employee and the mother of the present Petitioner, was not fit to perform any job. The other legal heir namely, Jagdish Samantray, was aged about 10 years at the time and was younger than the present Petitioner. After the first legal heir i.e. the wife of the deceased-government employee was not found to be suitable, the Petitioner was the next automatic choice as he is the eldest son. In view of the aforesaid factual position, this Court is of the view that the application submitted by the Petitioner in the year 2007 was a valid one and rightly the Opposite Parties included the name of the Petitioner in the panel list at Annexure-5 to the writ application.

14. So far as the ground taken by learned counsel for the State, with regard to applicability of the O.C.S. (RA) Rules, 1990 to the Aided Education Institution, is concerned, is now well settled in view of the judgment of the Division Bench in ***Bindusagar Samantaray vs. State of Odisha*** wherein the scope and applicability of the rule has been extended to the Aided Education Institution receiving block grant. The institution in question where



the father of the Petitioner was working was a Aided Education Institution. It was also recipient of block grant. Therefore, the case of the Petitioner is squarely covered by the ratio laid by the Division Bench in ***Bindusagar Samantaray's case*** (supra). In such view of the matter, this Court is of the view that rejecting the Petitioner's prayer on the ground that such benefit was subsequently withdrawn by the School and Mass Education Department, Government of Odisha, is unsustainable in law.

15. In view of the aforesaid analysis, this Court is of the view that the Opposite Party No.3 has committed a gross illegality in rejecting the application of the Petitioner for appointment on compassionate ground, vide order dated 05.03.2026, at Annexure-10. Moreover, the Opposite Parties, while rejecting the claim of the Petitioner, as submitted by the Petitioner, have given appointment to the person at Sl. No.1 of the list at Annexure-5. It is evident from Annexure-5 that in the case of one Haresh Chandra Samal, whose father died in harness on 07.08.1993 and who submitted his application only on 31.07.2007 after a delay of more than a decade has been favourably considered. Therefore, this Court is of the considered view that the Petitioner has been discriminated against. In view of the aforesaid position, the impugned order dated 05.03.2026, at Annexure-10 is hereby quashed. Further, the matter is remanded back to the Opposite Parties to reconsider the case of the Petitioner by taking into consideration the observations and findings of this Court made hereinabove. The Opposite Party No.3 shall do well to reconsider the case of the Petitioner for appointment on compassionate ground within a period of two months from the date of



communication of a copy of today's order.

16. With the aforesaid observation/ direction, the writ application stands disposed of.

Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

Sisir