



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15575 of 2026

Gouri Jena

....

Petitioner

Mr. S.R. Patnaik, Adv.

-versus-

**State of Odisha and
Others**

....

Opp. Parties

Mr. P.K. Panda, ASC

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**Order
No**

**ORDER
22.06.2026**

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard learned counsel for the parties.
3. The Petitioner has filed the present Writ Petition *inter alia* challenging order dated 28.07.2016 so passed by O.P. No.3 under Annexure-11. Vide the said order, claim of the petitioner to get the benefit of Rehabilitation Appointment has been rejected on the ground that petitioner is the married daughter of the deceased employee.
4. Learned counsel for the petitioner contended that entitlement of married daughter to get the benefit of



Rehabilitation Appointment is no more res-integra and this Court in series of cases has already held that married daughters are also eligible to get the benefit. In support of his submission, learned counsel for the petitioner relied on the following decisions of this Court in the case of ***Mamita Parida Vrs. State of Odisha and Others*** & ***Smt. Gayatri Naik Vrs. State of Odisha and Others***. This Court in the case of ***Mamita Parida*** in Para-4.3 has held as follows:-

“4.3. It is however contended that even though Petitioner in the meantime has got married, but since by the time Petitioner made her application, she was unmarried, she is eligible and entitled to get the benefit of appointment. It is also contended that this Court in the case of Kshirabadhi Bala Behera Vs. Odisha Administrative Tribunal represented through its Registrar, Cuttack & Ors. (2023 (Supp. I) OLR - 620 has also held that a married daughter will be entitled to get the benefit of appointment under the provisions of Rehabilitation Assistance Scheme. This Court in Para 46 & 47 of Judgment in Kshirabadhi Bala Behera has held as follows:-

“46. From the factual and legal analysis, as made above, it emanates that institution of marriage is an important and basic civil right of man and woman and marriage by itself is not a disqualification and impugned policy of the State Government barring and prohibiting the consideration of the ‘married’ daughter from seeking compassionate appointment merely on the ground of marriage is plainly arbitrary and violative of constitutional guarantees, as envisaged in Articles 14, 15, and 16(2) of the Constitution of India. Accordingly, the word ‘unmarried’, as prescribed in Rules, 1990 and Rules, 2020 is hereby struck down being unconstitutional and ultra vires being // 4 // violative of Articles 14, 15 and 16 of the Constitution of India.

47. As a fallout and consequence of aforesaid discussions, the orders dated 06.05.2015 and 29.06.2015 passed by the Tribunal in O.A.



No.1063 (C) of 2015 and M.P. No.637(C) of 2015 respectively cannot be sustained in the eye of law and accordingly the same are liable to quashed and are hereby quashed. As a consequence thereof, refusal to grant benefit to the 'married' daughter for consideration of compassionate appointment is hereby declared void and inoperative. Hence, the order impugned passed by the authority in rejecting the petitioner's case for compassionate appointment is hereby quashed. Accordingly, the opposite parties are directed to reconsider the claim of the petitioner for being appointed on compassionate ground afresh in accordance with law keeping in mind the fact that her father was died on 12.12.2010 and her application was rejected on 17.11.2014 after four years.”

This Court in the case of **Smt. Gayatri Naik** in Para-4.4 has held as follows:-

“4.4. In support of the aforesaid submission, Mr. Rath, learned counsel for the Petitioner relied on the decision of this Court passed in the case of *Basanti Nayak vs. State of Orissa and Others* decided on 27.10.2022. This Court in Paragraphs-10, 11 and 12 of the said judgment has held as follows:-

“10. In *Umesh Kumar Nagpal v. State of Haryana*,¹ the Supreme Court held that the object of compassionate appointment is to help the family tied over the crisis that befalls them on the circumstance, so that the family will not be put to jeopardy by being driven to impecuniosities and condemned by penury. It is for this reason the emphasis on appointment on compassionate grounds is immediacy of appointment. This principle has been laid down in various judgments of the apex Court and, as such, the compassionate appointment is by now too well settled that it is not a matter of right and not an alternate source of recruitment.

11. In the case of *C.B. Muthamma v. Union of India*,² the Supreme Court in the context of Indian Foreign Service (Conduct and Discipline), Rules, 1961, which prohibits appointment of married woman to such service, held in paragraphs-6 and 7 as follows: “At the first blush this rule is in defiance of Article 16. If a married man has a right, a married woman, other things being equal, stands on no worse footing. This misogynous posture is a hangover of the masculine culture of manacled the weaker sex forgetting how our struggle for national freedom was



also a battle against woman's thralldom. Freedom is indivisible, so is justice. That our founding faith enshrined in Articles 14 and 16 should have been tragically ignored vis-à-vis. half of India's humanity viz. our women, is a sad reflection on the distance between Constitution in the book and law in action. And if the executive as the surrogate of Parliament, makes rules in the teeth of Part III especially when high political office, even diplomatic assignment has been filled by women, the inference of diehard allergy to gender parity is inevitable. We do not mean to universalize or dogmatise that men and women are equal in all occupations and all situations and do not exclude the need to pragmatise where the requirements of particular employment, the sensitivities of sex or the peculiarities of societal sectors or the handicaps // 4 // of either sex may compel selectivity. But save where the differentiation is demonstrable, the rule of equality must govern."

Similar view has also been taken by the Bombay High Court in *Ranjana Murlidhar Anerao v. State of Maharashtra*³.

12. In the case of *Kshirabadi Bala Behera v. Orissa Administrative Tribunal*⁴, this Court observed that:

"The Apex Court in number of cases repeatedly emphasized the need of compassionate appointment to the dependent of the deceased Government servant without any loss of time. The whole object of granting compassionate appointment to enable the dependent(s) of deceased's family to earn bread and butter for the family and to come out from financial crisis, who suffers on account of unexpected and untimely death of deceased/Government servant therefore, the criteria to grant compassionate appointment should be 'dependency' rather than 'marriage'. In a given case, a 'married' daughter might be deserted wife, might have been abandoned wife, fully dependent upon her father, she might have been married to an indigent husband so that both the married daughter and son-in-law could have been dependent of the bread winner whose death left them to extreme financial hardship. There might be many other probabilities in which married daughter might be fully dependent upon the income of her father so that the death of the father to leave her and rest of the family members in extreme financial hardship. Therefore, the yardstick for extending the benefit of compassionate appointment should be dependency of the dependents on the deceased Government Servant and their marital status of dependent should not be impediment for his/her consideration on compassionate ground to wipeout leaves from the eyes of the suffering family on account of loss of earning member



in the family. A daughter after her marriage doesn't cease to be daughter of the father or mother and obliged to maintain their parents and daughter cannot be allowed to escape its responsibility on the ground that she is now married, therefore, such a policy of the State Government disqualifying, a 'married' daughter and excluding her from consideration apart from being arbitrary and discriminating is retrograde step of State Government as welfare State, on which stamp of approval cannot be made by this Court."

4.1. It is contended that since in similar issue this Court has held that married daughters are also eligible to get the benefit of compassionate appointment, ground on which claim of the petitioner has been rejected vide the impugned order is not sustainable in the eye of law.

5. Mr. P.K. Panda, learned Addl. Standing Counsel though on the other hand supported the impugned order but on being confronted with the order passed by this Court in a number of Writ Petitions, contended that the matter be remitted to O.P. No.3 to take a fresh decision on the claim of the petitioner.

6. Having heard learned counsel for the parties, considering the submissions made and placing reliance on the decisions in the case of **Mamita Parida & Smt. Gayatri Naik** as cited (supra), this Court is inclined to quash order dated 28.07.2016 under Annexure-11. While quashing the same, this Court remits the matter to O.P. No.3 to take a fresh decision on the claim of the petitioner in the light of the orders passed in the case of **Mamita Parida & Smt. Gayatri Naik**. Such a fresh decision be taken within a period of 2 (two) months from the date of



receipt of this order with due communication to the petitioner.

7. The Writ Petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Jyoti