



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.1550 of 2024

State of Odisha and others

....

Appellants

Mr. S.K. Jee, AGA

-Versus-

Madhab Bairagi

....

Respondent

Mr. Sidheswar Mallik, Advocate

CORAM:

**JUSTICE KRISHNA SHRIPAD DIXIT
JUSTICE CHITTARANJAN DASH**

**ORDER
26.03.2026**

**Order No.
02.**

State and its functionaries in this Intra-Court appeal seek to call in question a learned Single Judge's judgment dated 11.09.2023, whereby Respondent-Employee's W.P.(C) No.19465 of 2023 having been favoured, the following relief has been accorded to him as under:

"7. From what has been discussed hereinbefore, this Court has no hesitation, in holding that the reasoning adopted by Opposite Party No.2 as reflected in the impugned order cannot be sustained. Resultantly, the Writ Petition is allowed. The impugned order dated 17th May, 2023, is hereby quashed. The Opposite Party No.2 shall take note of the observations made in this order and issue necessary orders appointing the Petitioner under the Rehabilitation Assistance Scheme subject to satisfaction of the required formalities. The entire exercise should be completed within a period of four weeks from the date of communication of this order."

2. Learned AGA appearing for the Appellants vehemently submits that for granting relief of the kind, the pre-requisite is the



formal order pursuant to policy decision to bring NMR employees on work-charged establishment; learned Single Judge in the absence of deeming clause in the Rules has held that once the policy decision was taken on 01.03.2009, regardless of issuance of formal order to bring the candidate to the work-charged establishment, it should be deemed that he was brought to work-charged establishment on the date, the policy decision itself was taken. On that basis, he adds, relief has been accorded, which is contrary to the pith & substance of the policy and therefore, the impugned order is liable to be voided.

3. Learned counsel appearing for the Respondent-Employee makes submission in justification of the impugned order and the reasons on which it has been structured.

4. Having heard learned counsel for the Parties and having perused the appeal papers, we decline indulgence in the matter broadly agreeing with the reasoning of the learned Single Judge to the effect that once the policy decision was taken on 01.03.2009, regardless of issuance of formal order to bring NMR candidates on to the work-charged establishment, he should be deemed to have brought on the date of policy decision itself. In the present case, the policy decision was taken on 01.03.2009; the candidate died on 13.04.2011 and the formal order giving effect to the policy decision was issued on 17.04.2011. Death does not wait for the Government to wake up and to take decision at its sweet will. No explanation was offered whatsoever as to why for more than two years the policy decision was not given effect to. Government cannot move with the snail's speed to the advantage



of the citizens, more particularly the marginalized classes of employees.

4.1. We also notice that the candidate had put in a very long and spotless service for more than two and half decades. Had he been issued the formal order within some reasonable period, with explanation for literal delay brooked, perhaps, we would have taken a different view. Added, the ground that another view is possible, is no ground for appeal, said the Privy Council more than a century ago.

In the above circumstances, the appeal being unworthy of merits is liable to be and accordingly dismissed, costs having been made ease. The impugned order of the learned Single Judge shall be given effect to within an outer limit of eight (8) weeks, failing which the Authority run the risk of contempt proceedings.

Web copy of order to be acted upon all concerned.

(Krishna Shripad Dixit)
Judge

(Chittaranjan Dash)
Judge