



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.26652 of 2024

Nikita Mohanty

.....

Petitioner

Represented By Adv. –
Mr. Krishna Chandra
Sahu

-versus-

State of Odisha and others

.....

Opposite Parties

Represented By Adv. –
Mr. S.K. Brahma, ASC

CORAM:

THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER

01.05.2025

Order No.

03. 1. This matter is taken up through Hybrid mode.
2. Heard learned counsel appearing for the Petitioner as well as learned Additional Standing Counsel appearing 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 prayers:-

“It is, therefore, prayed that Hon’ble Court be pleased to direct the Opp. party authorities for providing the appointment of the petitioner under R.A scheme against any Class-Ill post commensurating with her qualification as per the prevailing /existing provisions/rules i.e. OCS (RA) Rules 1990 as was existing on the date of submission of the application form by the petitioner so also death of her father keeping in view of the



above settled position of law as has been decided in “Malayananda Sethy –Vs.- State of Oidsha” reported in 2022 (Vol-II) OLR Page-1 (SCC) within a time bound period for the interest of justice.

And may further be pleased to pass any other order(s), direction(s) as deems fit & proper for the bona fide interest of justice.”

4. Learned counsel for the Petitioner, at the outset, contended that the father of the Petitioner, namely, Late Nalinikanta Mohanty while serving as an Agriculture Overseer under the Opposite Party No.4 i.e. District Agriculture Officer, Jeypore, died in harness on 08.06.2015 leaving behind his legal heirs including the present Petitioner. After the death of the deceased Government employee, the Petitioner being one of the legal heirs submitted an application for appointment on compassionate ground on 29.12.2015 while the O.C.S. (R.A.) Rules, 1990 was in force. Along with his application, he has submitted all requisite documents. Accordingly, the Opposite Party No.4 forwarded the application to the office of the Opposite Party No.3 on 26.03.2016. He further contended that the Opposite Party No.3 on 06.04.2016 has returned the application of the Petitioner with a direction to resubmit the same with due compliance of the defects as per the provisions of OCS (RA) Rules, 1990. Thereafter, the Petitioner resubmitted the application after removing the defects, as pointed out by the Opposite Party No.3. On submission of the application by the Petitioner, the mother of the Petitioner was asked to appear before the Statutory District Medical Board for



examination on 02.05.2016. On such examination the Medical Board has observed that in view of the multiple diseases suffered by the mother of the Petitioner, she was declared as unfit to do the Government job. Such Medical Examination Report of the Board was communicated to the Opposite Party No.4 vide letter dated 05.05.2016 by the office of the C.D.M.O., Koraput. Learned counsel for the Petitioner, at this juncture, contended that although the Petitioner complies with all the requirement for appointment on compassionate ground, however the Opposite Parties are sitting over the matter and no final decision has been taken on such application of the Petitioner as of yet. Being aggrieved by such inordinate delay in considering and disposing the application of the Petitioner, the Petitioner has approached this Court by filing the present writ petition.

5. Referring to the counter affidavit filed by the the Opposite Parties No.1 to 4, learned counsel for the State, while denying inaction on the part of the Opposite Parties, contended that the case of the Petitioner for appointment on compassionate ground was not considered by the Opposite Parties as there was no vacancy. He further submitted that in view of the provisions contained in the O.C.S. (R.A.) Rules, 1990 amended by the 2016 Rules, a total number of 10% vacancies are to be earmarked to be filled up on compassionate ground. Therefore, it was contended that although the case of the Petitioner was considered, however due to non-availability of the vacancy, the Petitioner was not



given appointment by the Opposite Parties. Further, referring to the averments made in paragraph-9 of the counter affidavit, learned counsel for the State contended that the Chief District Agriculture Officer, Koraput, Opposite Party No.3 is not the competent authority to create any supernumerary post. Therefore, it was contended that no fault can be found with the conduct of the Opposite Parties in not giving appointment to the Petitioner on compassionate ground.

6. Having regard to the submissions made by the learned counsels appearing for the respective parties and on a careful analysis of such submissions, further on close scrutiny of the pleadings of the respective parties as well as the documents annexed thereto, this Court, at the outset, observes that the factual aspect of the matter is not disputed by either side. Further, it remains that the father of the Petitioner had died on 08.06.2015, i.e. much prior to the 2020 Rules came into force. Moreover, there is no dispute with regard to the applicability of the O.C.S. (R.A.) Rules, 1990, as the same has not been controverted to in the counter affidavit. This Court, further keeping in view the Notification dated 04.04.2025 of the G.A.&P.G. Department, Government of Odisha, is of the view that the application of the Petitioner should have been considered under the O.C.S. (R.A.) Rules, 1990.

7. In view of the aforesaid analysis of law, further keeping in view the fact that the application of the Petitioner has been kept



pending for a long time, this Court deems it proper to dispose of the writ petition by directing the Opposite Parties to consider the case of the Petitioner under the O.C.S. (R.A.) Rules, 1990 as well as the Notification dated 04.04.2025 of the G.A.&P.G. Department, Government of Odisha within a period of three months from the date of communication of a certified copy of this order. Any decision so taken by the Opposite Parties be communicated to the Petitioner within ten days thereafter.

8. With the aforesaid observation and direction, the writ petition stands disposed of.

(Aditya Kumar Mohapatra)
Judge

Debasis

Signature Not Verified

Digitally Signed
Signed by: DEBASIS AECH
Reason: Authentication
Location: ORISSA HIGH COURT
Date: 05-May-2025 13:49:49

