



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.43122 of 2023

Sabitri Behera

.... **Petitioner**
Mr. S. Choudhury, Advocate

-versus-

**State of Odisha and
Others**

.... **Opposite Parties**
Mr. A. Tripathy, AGA

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
18.08.2025

Order No.

- 04.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard learned counsel appearing for the Petitioner as well as learned Additional Govt. Advocate 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:-

“The petitioner therefore prayed that this Hon'ble Court may graciously be pleased to issue notices calling upon the opp. parties to show cause and after hearing the parties and considering the Medical Sickness Certificate of the petitioner vide Annexure - 5 be pleased to quash the rejection order dated 03.05.2023 vide Annexure - 3 and further order may be passed to direct the opp. party No. 2 to consider an application dated 09.01.2023 with enclosed documents of the petitioner's son namely, Prasanta Kumar Behera vide Annexure - 2 series within a stipulated time for saving the petitioner and her son from further harassment and distress condition with starvation.



*And / or pass any other order / orders,
direction / directions, which this Hon'ble Court may
deems fit and proper to secure the ends of justice."*

4. It is submitted by learned counsel for the Petitioner that the husband of the present Petitioner, who was working as an Audit Superintendent in the Board of Revenue, Odisha, Cuttack, died in harness on 24.12.2020. After death of the husband of the Petitioner, Petitioner obtained the legal heir certificate, Medical Certificate and other necessary documents to submit an application for appointment of her son under Annexure-2 series on compassionate ground. It is stated by the learned counsel for the Petitioner that during the relevant period, since there was lockdown and shutdown due to Covid-19 pandemic, there was some delay in obtaining the necessary documents for submitting her application. Therefore, the Petitioner finally submitted her application on 09.01.2023 for appointment of her son under the Rehabilitation Assistance Scheme. Learned counsel for the Petitioner further contended that vide letter dated 03.05.2023, the office of the Opposite Party No.2 communicated to the Petitioner that the application of the Petitioner for appointment under the Rehabilitation Assistance Scheme has been rejected in view of the sub rule(5) of Rule-7 of O.C.S.(R.A.) Rules, 2020. Further, referring to sub rule(5) of Rule 7 of the O.C.S. (R.A.) Rules, 2020, learned counsel for the Petitioner contended that the same provides for a period of limitation for submission of the application. He further contended that sub rule(5) of Rule-7 of the O.C.S. (R.A.) Rules provides that the application is to be submitted within two years from the death of the deceased Government employee. Thereafter, the same shall not



entertained by the Appointing Authority. In view of the aforesaid submission, learned counsel for the Petitioner contended that the application for the Petitioner has not been considered and same has been thrown out only on the ground of limitation as prescribed in Rule-7(5) of the O.C.S. (R.A.) Rules, 2020.

5. In course of his argument, learned counsel for the Petitioner submitted that the conduct of the Opposite Parties in rejecting the application of the Petitioner under Annexure-3 to the writ petition is being challenged on two counts. First, that there was lockdown and shutdown due to Covid-19 pandemic, as a result of which, there was delay in obtaining necessary documents including the legal heir certificate and Medical Certificate to submit the application. Further, referring to the order of the Hon'ble Supreme Court in *Suo Motu Writ Petition (C) No.3 of 2020* dated 10th January, 2022, learned counsel for the Petitioner submitted that the period of limitation is to be excluded in view of the direction of the Hon'ble Supreme Court. In this aforesaid context, learned counsel for the Petitioner referred to para-5(IV) of the aforesaid order dated 10th January, 2022, which is quoted herein below:-

“It is further clarified that the period from 15.03.2020 till 28.02.2020 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1981 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”



6. In view of the order passed by the Hon'ble Supreme Court, it appears that the period of limitation starting from 15.03.2020 till 28.02.2022 shall be excluded while calculating/computing the limitation period. However, the same has not been done in the case of the Petitioner, as a result of which, the Opposite Parties have rejected the application of the Petitioner in an illegal manner and in violation of the direction of the Hon'ble Supreme Court.

7. Learned Additional Standing Counsel appearing for the State-Opposite Parties, on the other hand, contended that the order of the Hon'ble Supreme Court referred to by the learned counsel for the Petitioner is only applicable to the proceedings pending before any Court/Tribunal including the Supreme Court. In the said context, he also referred to para-3 of the aforesaid order dated 10th January, 2022. In such view of the matter, learned Additional Standing Counsel submitted that the conduct of the Opposite Parties in rejecting the application under Rule-7(5) of the 2020 Rules cannot be questioned in the present writ petition and, accordingly, he submitted that the present writ petition is devoid of merit and the same is liable to be dismissed.

8. Having heard the learned counsels appearing for the respective parties and on a careful examination of the materials on record as well as upon scrutiny of the factual background of the present case, it is not disputed that the husband of the Petitioner died on 24.12.2020. Therefore, her case is to be considered under the O.C.S. (R.A.) Rules, 2020. Further, with regard to the applicability of the limitation as provided under Rule-7(5) of the O.C.S. (R.A.)



Rules, 2020, this Court is of the considered view that due to Covid-19 pandemic there was lockdown and shutdown throughout the country including the State of Odisha. It is also a matter of fact that the Government Offices were to be shutdown or were partly opened with limited staff. Therefore, the citizens were facing a lot of difficulty in those stages.

9. Considering the aforesaid difficulty, the Hon'ble Supreme Court had issued a slew of direction in the Suo Motu Writ Petition (C) No.3 of 2020 referred to hereinabove. Although in para-3 of the aforesaid order, it has been referred that the period of limitation has been extended to the Courts and Tribunals where proceedings are pending. However, on a careful reading of para-5(III) of the aforesaid order, this Court observes that the Hon'ble Supreme Court has specifically stated that the order dated 10th January, 2022 shall be applicable to limitation provided in different statutes and any other laws, which prescribe period(s) of limitation for instituting proceedings.

10. In the present case, Rule-7(5) of the O.C.S. (R.A.) Rules, 2020 prescribes limitation period of two years for submission of application by the legal heirs and Medical Certificate. Keeping in view the object of the 2020 Rules, which is beneficial in nature, the same cannot be given restrictive interpretation. By applying the order dated 10th January, 2022 of the Hon'ble Supreme Court passed in Suo Motu Writ Petition (C) No.3 of 2020, this Court is of the considered view that the direction in para-5(IV) be also made applicable to other statutes like the O.C.S. (R.A.) Rules, 2020 whereunder the Petitioner is required to



submit an application which is to be processed by the authorities for giving appointment to the deserving persons on compassionate ground.

11. In view of the aforesaid analysis of law and keeping in view the factual background of the present case, this Court is of the considered view that the impugned rejection order dated 03.05.2023 under Annexure-3 to the writ petition is unsustainable in law. Accordingly, the impugned rejection order dated 03.05.2023 under Annexure-3 to the writ petition is hereby quashed. Further, the matter is remanded back to the Opposite Party No.2 to consider the application of the Petitioner on its own merit by accepting the same to be an application under the O.C.S. (R.A.) Rules, 2020 and a final decision be taken on such application within a period of two months from the date of communication of a copy of this order. The final decision so taken be communicated to the Petitioner within two weeks thereafter.

12. With the aforesaid observation and direction, the writ petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Basudev

Signature Not Verified

Digitally Signed
Signed by: BASUDEV SWAIN
Designation: SR. STENO
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 20-Aug-2025 11:25:09

