
(2014) 12 OHC CK 0007
In the Orissa High Court
Case No : O.J.C. No. 5746 of 1996

Damodar Jena

APPELLANT

Vs

Chairman-Cum-M.D., Grid Co. Ltd. and Others

RESPONDENT

Date of Decision : 09-12-2014

Acts Referred:

Citation : (2015) 2 ILR 569

Hon'ble Judges : Biswanath Rath, J

Bench : Single Bench

Advocate : J. Mohanty and D. Samal, S.C., Advocate for the Appellant; P.K. Mohanty, M. Das and T. Mohanty, Advocate for the Respondent;

Final Decision : Allowed

Judgement

Biswanath Rath, J.

1. This is a writ petition filed by the petitioner praying for quashing of Office Order No. 4504(570)/Dt. 28.5.1996/AW-LW-1-22/96 and for giving a direction to the opposite parties to issue appointment letter in absorbing the petitioner under the Rehabilitation Assistance Scheme. Facts as borne from the writ petition is that the petitioner's father, late Surendra Jena was working as a Helper in the Paralakhemundi Electrical Division under the OSEB establishment in the year 1981. He became a regular Helper in the year 1988. While the father of the petitioner was in employment and residing at his home, on 13.12.1995 he fell down from a tree and he was immediately shifted to District Headquarter Hospital, Paralakhemundi where he was declared dead. At the relevant time, the OSEB on account of death of his father paid Rs. 1,000/- towards funeral expenses. At this stage, the petitioner made an application to the authority concerned to give him appointment under the Rehabilitation Scheme on the plea that there was nobody in the family to take care of the mother and the others. It is contended by the petitioner that while the petitioner's father was in employment of OSEB, the OSEB by virtue of Notification No. 13108 dated 18th April, 1992 passed a Regulation, namely, Orissa State Electricity Board Service

(Rehabilitation Assistance) Regulation, 1992 which came into force at once facilitating giving appointment to one of the family members under the rehabilitation scheme in the event of unnatural death and accident of natural death during service career. On submission of the application of the petitioner, the matter was enquired at the level of Collector. The Collector after due inquiry submitted his report to the concerned authority favouring the petitioner. In the meanwhile, the Orissa State Electricity Board was renamed as "Grid Corporation of Orissa Limited. After taking over of the liabilities, assets and employees, the Board of Directors of Gridco in their 3rd meeting held on 30.3.1996 approved a Rehabilitation Scheme for providing financial relief to the eligible family members of the employees in lieu of compassionate appointment provided under the existing regulation, consequent upon which the Grid Corporation by Resolution dated 28.5.1996 issued an order passing total ban on engagement of NMR/Casual/Contingent/Temporary/Daily rated/work charge Labourers under all the Officers and establishments of Grid Corporation. Petitioner contended that the rehabilitation scheme of OSEB was very much in existence till 27.5.1996 and since the father of the petitioner expired on 13.12.1995, he would have been benefited under the OSEB Rehabilitation Scheme. It is alleged by the petitioner that the petitioner has been denied with an employment in the garb of new provision contained in the replaced regulation which has its prospective effect.

2. Per contra, the Grid Corporation authorities on their appearance filed a counter affidavit inter alia contending that it is a fact that the father of the petitioner died on 13.12.1995. They have also admitted to have received the application at the instance of the petitioner seeking employment under the Rehabilitation Assistance Scheme under the OSEB Service (Rehabilitation Assistance) Regulation, 1992. They have also admitted that on their request, an inquiry has also conducted at the level of Collector, but denied the benefit on the ground that the report of the Collector being received in the Office of Executive Engineer on 18.4.1996 and by which time, the Regulation, 1992 was repealed vide Notification dated 29.3.1996 and the old Regulation has no application at this point of time. It is an admitted fact that the petitioner's father died on 13.12.1995 and the application for Rehabilitation appointment was also made during the existence of the Regulation, 1992. From the submissions of opposite parties made at Paragraph-6 of the counter affidavit, it is clear that the request of the petitioner for appointment under Rehabilitation Scheme was turned down solely on the plea that the particular scheme was repealed on 29.3.1996, much before the report from the Collector, Ganjam was received in the Office of the Executive Engineer on 8.4.1996. The stand of the opposite parties is wholly unsustainable in the eye of law for the reason that the particular Regulation, 1992 was in vogue till 29.3.1996 and the application at the instance of the petitioner having been made much before 29.3.1996, the Regulation, 1992 had the application in the case of the petitioner. Receipt of the report of the Collector in relation to the petitioner on 8.4.1996, it is wholly irrelevant. Since the application of the petitioner for appointment under Rehabilitation Assistance

Regulation was received when the Regulation 1992 was in operation and since it contained a provision for providing employment even in case of an unnatural death, the petitioner is very much entitled to an employment in the Gridco.

Under the circumstances, I direct the Gridco Authority to provide employment to the petitioner befitting to his qualification within a period of six weeks from the date of this judgment. The writ petition succeeds. However, there shall be no order as to cost.