

(2024) 02 OHC CK 0260

In the Orissa High Court

Case No : Writ Petition (C) No. 4150 Of 2024

P. Sankar Choudhury

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 28-02-2024

Acts Referred:

Citation : (2024) 02 OHC CK 0260

Hon'ble Judges : A.K. Mohapatra, J

Bench : Single Bench

Advocate : B.K. Behera 1, D. Mohapatra

Final Decision : Disposed Of

Judgement

A.K. Mohapatra, J

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned DSGI along with learned Additional Standing Counsel 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 prayer :

"Therefore it is humbly prayed that this Hon'ble Court may kindly be pleased to admit the case and issue notice to the Opposite Parties to file their show cause as to why the cause of the petitioner shall not be allowed and after hearing the parties, the case of the petitioner be allowed.

And pass necessary order to set aside the annexure-10 dt.19.12.2023.

And further direction be given to the Opposite parties more particularly to the Opp. Party no.3 to give appointment to the petitioner under Orissa Civil service (Rehabilitation Assistance) Rule, 1990 and the petitioner be paid all financial and consequential benefits within a stipulated period. And/or direct the Opp. Party

No.3 to taking into account the recent decision of the Hon'ble Supreme Court in case of Malayananda Sethy V/s State of Odisha & others and the petitioner be given appointment under O.C.S.(R.A.) Rule 1990 within a stipulated period. And or pass any other order(s) which may deem fit and proper for adjudication of this case"

4. It is submitted by learned counsel for the petitioner that father of the petitioner, late P. Nrusingh Choudhury, who was serving as a JobContract Class IV employee under the Opposite Party No.6 in the year 1974. In the year 1999, the Opposite Party No.6 prepared a district wise gradation list where the petitioner's father's name find place in Sl. No.1 and his date of joining is 04.08.1963 died in harness on 25.05.2006 leaving behind his legal heirs including the present petitioner. After death of his father, the petitioner is providing financial support to the family and applied for a job under Rehabilitation Assistance Scheme on compassionate ground. The said application has been annexed to the writ petition under Annexure-2. It is further submitted by learned counsel for the petitioner that the application of the petitioner is pending before the Opposite Party No.6 and no decision has been taken on such application as of now. In this context, learned counsel for the petitioner relies upon the judgment rendered by the Hon'ble Supreme Court in the case of Indian Bank vs. Promila, reported in (2020) 2 SCC 729, State of Madhya Pradesh vs. Amit Shrivastava, reported in (2020) 10 SCC 496, Hon'ble Apex Court in the case of The Secretary to Govt., Department of Education (Primary) & Ors. vs. Bheemesh Alias Bheemappa (Civil Appeal No.7722 of 2021) as well as in the case of State of Madhya Pradesh vs. Ashish Awasthi, reported in 2021(II) OLR (SC) 1072. Relying the aforesaid judgment, learned counsel for the petitioner submits that the application of the petitioner needs to be considered in the light of the judgment rendered by the Hon'ble Supreme Court.

5. Learned Additional Standing Counsel, on the other hand, submits that during the pendency of the application submitted by the petitioner for appointment on compassionate ground, the petitioner has not secured marks as required in G.A. & P.G. Department Notification No.5651/Gen dated 17.02.2020. Therefore, the authorities, by referring to the same, have sought for a clarification which is not illegal. He further submits that he has no objection, if a direction is given to the authorities to consider the grievance petition of the petitioner in accordance with law within a stipulated period of time.

6. Considering the submissions made by the respective parties, this Court deems it proper to dispose of the application at the stage of admission by setting aside the letter dated 19.12.2023 under Annexure-10 and directed the Settlement Officer, Ganjam-Koraput Major Settlement, Berhampur-Opposite Party No.6 to consider the application of the petitioner afresh in the light of the law laid down by the Hon'ble Supreme Court in the case of Malaya Nanda Sethy (supra) and the petitioner is directed to approach to the Opposite Party No.6 along with certified copy of this order within a period of two weeks from today. On

appearance of the petitioner, Opposite Party No.6 shall do well to consider the case of the petitioner and dispose of the matter by passing a speaking and reasoned order in accordance with law within a period of two months. Any decision so taken on the same shall be communicated to the petitioner within a period of ten days thereafter.

7. Further, it is directed that the Opposite Party No.6 shall act upon the same on production of certified copy of this order.

8. With the aforesaid observations/ directions, the writ application stands disposed of.

9. Issue urgent certified copy of this order as per Rules..

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