

IN THE HIGH COURT OF ORISSA AT CUTTACK
RVWPET No.416 of 2023

Seemarani Pandab *Petitioner(s)*
-versus-
State of Odisha & Ors. *Opposite Party(s)*

Advocates appeared in this case through Hybrid Arrangement Mode:

For Petitioner(s) : *Mr. Chiranjeev Bidyabhushan,*
Adv.

For Opposite Party(s) : *Mr. Gyanaranjan Mohapatra,*
ASC

CORAM:

DR. JUSTICE S.K. PANIGRAHI

DATE OF HEARING:-19.12.2023

DATE OF JUDGMENT: -08.02.2024

Dr. S.K. Panigrahi, J.

1. The Petitioner in the abovementioned Review Petition challenges the judgement passed by this Court in WPC(OA) No. 436 of 2014 wherein the original application was rejected and disposed of for being the matter infructuous at the time of hearing.
2. The relevant facts of the case are as follows:
 - a. The father of the petitioner namely Benudhar Pandab was appointed as PET in CRS High School, Tihidi in the district of Bhadrak. While he was continuing, he died in service on

01.08.2004 and after the death of the father of the petitioner, the petitioner being his unmarried daughter and his one of the legal heir having graduate degree made an application on 26.07.2005 for appointment under the Rehabilitation Assistance Scheme against her deceased father. Her application was duly forwarded by the Headmaster to Respondent No. 3 on the very same day.

- b. The petitioner who was the eligible candidate to get the post under the Rehabilitation Scheme applied in the year, 2005, i.e., within time limit after the death of her father. Thereafter, one year after the application, she got married.
- c. When this fact came to the knowledge of the OPs, they denied to give any post to the petitioner citing Government Letter No- 15683, dated 30.08.2010 which prohibited married daughters from availing the benefit of such recruitments on compassionate grounds, thus, the present litigation.

3. Learned counsel for the Petitioner asserted that the annulment of the petitioner's candidacy stemmed from her marital status during the period under consideration for her appointment. Consequently, her complaint regarding the Rehabilitation Assistance Scheme was deemed irrelevant. As a result, the issue became moot. Upon careful examination of the aforementioned statement, it is evident that the argument presented by the former counsel representing the petitioner is misconstrued and lacks relevance to the pertinent facts and circumstances of the present case.

4. The petitioner entered into marriage in the year 2005. Therefore, asserting in the year 2022 that the issue has become moot due to the petitioner's marriage in the interim is entirely incorrect and misconceived.
5. The counsel for the petitioner relied on *Basanti Nayak v. State of Orissa*¹ wherein this Court categorically held that, the refusal to grant benefit to the 'married' daughter for consideration of compassionate appointment is illegal and arbitrary.
6. It is posited that, owing to a misunderstanding and inaccurate presentation by the former counsel, the current case has been concluded. Therefore, it is requested that the order dated 11.07.2022 be reconsidered and revoked, and the case be reinstated for a thorough hearing and adjudication on its merits. Given that the matter has not been deliberated upon substantively, the ultimate order resolving the issue should be annulled, and the case should be reinstated in the records of this Court.
7. I have gone through the pleadings and heard learned counsels for the parties.
8. I had the opportunity to write the judgment of *Basanti Nayak* (supra) and addressing the longstanding issue of unjustly prohibiting the rightful appointment of married daughters from economically disadvantaged families on compassionate grounds under the Rehabilitation Assistance Scheme.

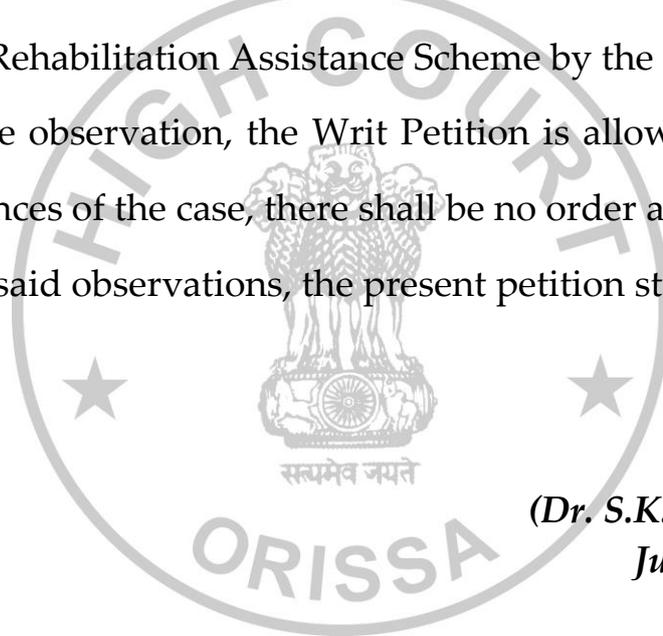
¹ WPC(OAC) 2669 of 2008 (ORHC)

9. In considered view of this Court, after the decision rendered in *Basanti Nayak* (supra) and *Urbashi Sahoo v. State of Orissa*², The dismissal of the candidacy of a married daughter for compassionate appointment under the Rehabilitation Assistance Scheme is not justifiable for it is plainly arbitrary and violative of constitutional guarantees, as envisaged in Articles 14, 15, and 16(2) of the Constitution of India.
10. I must reiterate that the yardstick for extending the benefit of compassionate appointment should be dependency of the dependents on the deceased Government Servant and the marital status of dependent should not be an impediment for his/her consideration on compassionate ground to provide support to suffering family on account of loss of an earning member in the family. A daughter after her marriage doesn't cease to be daughter of the father or mother and obliged to maintain their parents and daughter cannot be allowed to escape her responsibility on the ground that she is now married, therefore, such a policy of the State Government disqualifying, a 'married' daughter and excluding her from consideration apart from being arbitrary and discriminating is a retrograde step of State Government as welfare State, on which stamp of approval cannot be made by this Court.
11. Since for rejecting the claim of the petitioner apart from the ground that the candidate being a married daughter, no further reason is available or there is no other reason that could be available to be given

² 2022(II) CLR 64

by the authorities; the impugned decision rejecting the application of the petitioner for appointment under Rehabilitation Assistance Scheme is set aside.

12. It is directed that the application of the petitioner be considered from the day her application was considered for the first time i.e. 2013.
13. Since about eleven years have passed when the applicant applied for appointment under Rehabilitation Assistance Scheme and many years have been spent in litigation, in the interest of justice and fair play, the age of the petitioner shall not be a factor to consider her for a suitable job under the Rehabilitation Assistance Scheme by the authority.
14. With the above observation, the Writ Petition is allowed. In the facts and circumstances of the case, there shall be no order as to costs.
15. With the aforesaid observations, the present petition stands disposed of.



(Dr. S.K. Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 8th February, 2024/*