[2025] 5 S.C.R. 2799 : 2025 INSC 813

State of Odisha & Ors.
v.
Jita Luha

(Civil Appeal No. 5842 of 2025)

02 May 2025

[J.K. Maheshwari* and Aravind Kumar, JJ.]

Issue for Consideration

Issue arose whether directions issued by the High Court regarding grant of rehabilitation assistance/appointment under the Odisha Civil Service (Rehabilitation Assistance) Rules, 1990 warrants interference in view of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020.

Headnotes†

Odisha Civil Service (Rehabilitation Assistance) Rules, 1990 – rr.2(b), 8 – Odisha Civil Services (Rehabilitation Assistance) Rules, 2020 – rr.6, 6(9) – Odisha Civil Services (Rehabilitation Assistance) Amendment Rules 2025 – r.9(a), (b), (c) – Rehabilitation assistance/appointment – Grant of – 1990 Rules to regulate recruitment to the state civil services and posts as a measure of rehabilitation assistance – Said Rules applicable to the member of the family – Thereafter, 2020 Rules were notified whereby it was made clear that pending cases as on the date of these Rules to be dealt with in accordance with provision of 2020 Rules – Writ petitions by the respondents aggrieved with the application of rehabilitation assistance in accordance with 2020 Rules in the cases where employees have died during subsistence of 1990 Rule – High Court issued directions clarifying that the date of death of the deceased employee would be relevant factor and the case of the respondents to be considered applying the 1990 Rules and not as per 2020 Rules – Appeals by the State challenging the said direction – During pendency, 2025 Rules notified – Issuance of directions by Supreme Court:

Held: Directions issued by the High Court finds force from the amended rules notified in 2025, and is maintained – Respondents at

* Author

liberty to submit an application, if not submitted, to the jurisdictional authorities along with requisite documents – Where application has already been submitted, additional documents to be submitted to the authority, if required – On receiving the applications the appropriate authority to examine the cases of individual respondents in terms of the 2025 amended rules and pass appropriate order – Said applications not be rejected on technical grounds and to be considered sympathetically strictly in accordance with the Rules – In case the post is available, the competent authority to pass an order of appointment, otherwise the procedure as prescribed to be followed and thereafter the respondents be permitted to join their duties within the time specified – Appointment already granted by the Government extending the benefit of Rehabilitation Assistance Scheme to remain unaffected by the said directions – Individual respondent at liberty to take recourse of law as permissible, in case their claim is rejected by the authorities – Said directions to apply *mutatis mutandis* in all pending cases. [Para 12]

List of Acts

Odisha Civil Service (Rehabilitation Assistance) Rules, 1990; Odisha Civil Services (Rehabilitation Assistance) Rules, 2020; Odisha Civil Services (Rehabilitation Assistance) Amendment Rules 2025; Constitution of India.

List of Keywords

Appointment on compassionate ground; Recruitment to State Civil Services; Rehabilitation assistance; Family in financial distress; Available vacancy; Date of death of deceased; Schools and colleges not governed by block grant; Rehabilitation Assistance Scheme.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 5842 of 2025

From the Judgment and Order dated 27.06.2023 of the High Court of Judicature at Orissa at Cuttack in WP(C) No. 2070 of 2021

With:

Civil Appeal Nos. 5843, 5844, 5845, 5846, 5847, 5848, 5849, 5850, 5851, 5852, 5853, 5854, 5855, 5856, 5857, 5858, 5859, 5860, 5861, 5862, 5863, 5864, 5865, 5866, 5867, 5868, 5869, 5870, 5871, 5872, 5873, 5874, 5875, 5876, 5877, 5878, 5879,

5880, 5881, 5882, 5883, 5884, 5885, 5886, 5887, 5888, 5889, 5890, 5891, 5892, 5893, 5894, 5895, 5896, 5897, 5898, 5899, 5900, 5901, 5902, 5903, 5904, 5905, 5906, 5907, 5908, 5909, 5910 5911, 5912, 5913, 5914, 5915, 5916, 5917, 5918, 5919, 5920, 5921, 5922, 5923, 5924, 5925, 5926, 5927, 5928, 5929, 5930, 5931, 5932, 5933, 5934, 5935, 5936, 5937, 5938, 5939, 5940, 5941, 5942, 5943, 5944, 5945, 5946, 5947, 5948, 5949, 5950, 5951, 5952, 5953, 5954, 5955, 5956, 5957, 5958, 5959, 5960, 5961, 5962, 5963, 5964, 5965, 5966, 5967, 5968, 5969, 5970, 5971, 5972, 5973, 5974, 5975, 5976, 5977, 5978, 5979, 5980, 5981, 5982, 5983, 5984, 5985, 5986, 5987, 5988, 5989, 5990, 5991, 5992, 5993, 5994, 5995, 5996, 5997, 5998, 5999, 6000, 6001, 6002, 6003, 6004, 6005, 6006, 6007, 6008, 6009, 6010, 6011, 6012, 6013, 6014, 6015, 6016, 6017, 6018, 6019, 6020, 6021, 6022, 6023, 6024, 6025, 6026, 6027, 6028, 6029, 6030, 6031, 6032, 6033, 6034, 6035, 6036, 6037, 6038, 6039, 6040, 6041, 6042, 6043, 6044, 6045, 6046, 6047, 6048, 6049, 6050, 6051, 6052, 6053, 6054, 6055, 6056, 6057, 6058, 6059, 6060, 6061, 6062, 6063, 6064, 6065, 6066, 6067, 6068, 6069, 6070, 6071, 6072, 6073, 6074, 6075, 6076, 6077, 6078, 6079, 6080, 6081, 6082, 6083, 6084, 6085, 6086, 6087, 6088, 6089, 6090, 6091, 6092, 6093, 6094, 6095, 6096, 6097, 6098, 6099, 6100, 6101, 6102, 6103, 6104, 6105, 6106, 6107, 6108, 6109, 6110, 6111, 6112, 6113, 6114, 6115, 6116, 6117, 6118, 6119, 6120, 6121, 6122, 6123, 6124, 6125, 6126, 6127, 6128, 6129, 6130, 6131, 6132, 6133, 6134, 6135, 6136, 6137, 6138, 6139, 6140, 6141, 6142, 6143, 6144, 6145, 6146, 6147, 6148, 6149, 6150, 6151, 6152, 6153, 6154, 6155, 6156, 6157, 6158, 6159, 6160, 6161, 6162, 6163, 6164, 6165, 6166, 6167, 6168, 6169, 6170, 6171, 6172, 6173, 6174 6175, 6176 and 6177 of 2025.

Appearances for Parties

Advs. for the Appellants:

Pitambar Acharya, Sr. Adv./Advocate General., Som Raj Choudhury, Prakash Ranjan Nayak, Dhananjaya Mishra, Navneet Dogra, Rohit Amit Sthalekar, Purnendu Bajpai, Shashank Singh, Suvendu Suvasis Dash, Niranjan Sahu, Ms. Shivangi Gupta, Ms. Mallika Yadav, Shovan Mishra, Ms. Bipasa Tripathy, Kiran Kumar Patra, Naveen Kumar, Subhasish Mohanty, Milind Kumar, Shubhranshu Padhi, Jay Nirupam, D. Girish Kumar, Pranav Giri, Ekansh Sisodia, Ankit Agarwal, Koustubh Desai, Ramendra Mohan Patnaik,

Debabarta Dash, Debabrata Dash, Ms. Apoorva Sharma, Jogy Scaria, Joby P. Varghese, Hitendra Nath Rath, Anjuman Tripathy, Chandra Vardhan Singh, Ms. Sharmila Upadhyay, Srisatya Mohanty, Ms. Samapika Biswal, Gaurav Khanna, Prasenjeet Mohapatra.

Advs. for the Respondent:
Ashok Kumar Panda, Sr. Adv., Ms. Babita Khushwaha, Ms. Vernika Tomar, Ajay Vikram Singh, Sanjeev Kumar, A.k.de, Mrs. Ananya De, Pramit Saxena, Ms. Chandni Sharma, Rabin Majumder, Hitendra Nath Rath, Ms. Deepanwita Priyanka, Aldanish Rein, Dipak Kumar Jena, Prasanna Kumar Parhi, Pramod Kumar, Ms. Smita Kumari, Pradeep Kumar Verma, Raj Shekhar Jena, Sandip Munian, Ashutosh Singhdeo, Kush Chaturvedi, Ms. Harshita Choubey, Siddhartha Iyer, Ms. Diksha Rai, Ms. Purvat Wali, Piyush Vyas, Ms. Atiga Singh, Shashwat Panda, Manoranjan Paikaray, Devendra Singh Kushwaha, Praveen Agrawal, Nagarkatti Kartik Uday, Anshuman Siddharth Nayak, Devesh Pratap Singh, Rahul Kulhare, Krishna Mourya, Ms. Mahika Malik, Ms. Mohini Priya, Chandra Bhushan Prasad, Udayaditya Banerjee, S. K. Verma, Arindam Mukherjee, Ms. Gargi Tuli, Janmejay Verma, Ms. Ananya Verma, Abhishek Kumar, Shishir Pinaki, Ms. Vandana Kaushal, Suchit Mohanty, Samarth Mohanty, Vishal Arun, Kedar Nath Tripathy, Aditya Narayan Tripathy, Ms. Rohini Wagh, Amit Kumar Singh, Ms. K Enatoli Sema, Ms. Chubalemla Chang, Prang Newmai, Apoorva Bhumesh, Ms. Madhavi Khare, S.k. Patri, Raveesh Kumar Tripathi, Ram Bhadauria, Lokesh Raghav, Robin Khokhar, Dhananjai Jain, Ms. Ankita Sarangi, Abinash Acharya, Kumar Abhishek, Sravan Kumar Karanam, Haraprasad Sahu, Mrs. Anita Sahu, Rohit Kumar Rana, Pranaya Kumar Mohapatra, Ms. Renuka Sahu, Shivam Singh, Ms. Bharti Tyagi, V. K. Monga, Sanjay K Das, Swetaketu Mishra, Ms. Gouri Monga, F. I. Choudhury, Atul Kumar, Karunakar Rath, Abhimanyu Sharma, Ms. Deepali, Amit Gupta, Rahul Thukral, Tarun Gupta, D. Abhinav Rao, Abhisek Das, Ms. Megha Shaw, Raghav Bherwani, Somanatha Padhan, Kumar Gaurav, Patta Arun Kumar, Duvvada Ramesh, Ms. Kristen Sleeth, Tom Joseph, Ms. Arya Krishnan, Prashant Bhardwaj, Ms. Anugraha Sabu, B. Ravindra Kumar, Shamik Shirishbhai Sanjanwala, Sunil Kumar Sethi, Ms. Sheetal Patil, Kailas Bajirao Autade, Ms. Soumya Priyadarshinee, Amit Srivastava, Naveen Kumar Bharadwaj, Suresh Chandra Tripathy, Syed Mehdi Imam, Anirudh Sanganeria, Sushanta Kumar Mishra, Ranjit Samal, Ami Kumar Saa, Mohit Agarwal, Rizwan Ahmad, Merusagar Samantaray, Ms. Ayushi Upadhyay,

Jaydip Pati, Siddhartha Chowdhury, Snehasish Mukherjee, Shaffi Mather, Suraj Mohanty, Suman Tripathy, Ms. Shruti Mishra, Sougat Mishra, Ms. Nitika Duhan, Vipul Kumar, Guntur Pramod Kumar, Prasanna S, Gautam Das, Gautama Das, Abanikanta Sahu, Shivam Kumar, Tarunkant Samantaray, R.k.padhi, Ms. Vandana Miglani, Ms. Santosh Kumar Bebarta, Ms. Smita Samantaray, Mrs. Monika Chauhan, Divyesh Pratap Singh.

Judgment / Order of the Supreme Court

Judgment

J.K. Maheswari, J.

1. Leave granted.

2. The present batch of appeals is in connection with grant of appointment under the Odisha Civil Services Rehabilitation Assistance Rules prevalent in the state, and against an order dated 27.06.2023. The High Court of Orissa, Cuttack by the impugned judgment vide paragraphs 84, 85, 86 and 87 directed as under: -

> "84. In view of the above decision, we are of the view that the application for the petitioners shall be considered under the Odisha Civil Services (Rehabilitation Assistance) Rules, 1990 in as much as on scrutiny, it is found that all the applications were filed before 17.02.2020 and the delay in considering the applications in time is entirely attributable to the opposite parties. Such exercise shall be completed within a period of three months from the day when a copy of the judgment/order shall be placed before the opposite parties by the petitioners.
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> 85. That apart, while dealing with the applications in which the petitioners have sought the rehabilitation assistance/ appointment against a direct payment/GIA Rules at the Government aided educational institution, the applicability of the rehabilitation scheme in those institutions shall be separately determined by the opposite parties on the basis of the policy of the Government as discussed by us. If it is found that the Odisha Civil Services (Rehabilitation Assistance) Rules, 1990 was applicable on the date of

> death of the deceased employee, the petitioner shall be considered for rehabilitation assistance/appointment. So far as the retrospective operation of the rehabilitation assistance/appointment is concerned, this Court cannot direct the opposite parties to give the appointment retrospectively under the Rehabilitation Assistance/ Appointment Scheme in as much as it is no more res integra, the petitioner does not have any vested right of appointment under such rehabilitation assistance/ appointment scheme. They are only entitled to be considered under the scheme for that purpose.
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> 86. Consequently, the opposite parties shall consider the applications of the petitioners under the Odisha Civil Services (Rehabilitation Assistance) Rules, 1990 read with the relevant policy extending such scheme to the Government aided educational institutions at the relevant time of the death of the deceased employee for the purpose of the rehabilitation assistance/appointment within the time as prescribed above.
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> 87. The orders passed by the opposite parties rejecting the applications for rehabilitation assistance/appointment in case of some of the petitioners are quashed."

3. In the facts, the short question which falls for our consideration is whether directions issued by the High Court in the order impugned warrants interference in view of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020?

4. In the present case, respondents have filed writ petitions seeking appointment on compassionate ground under the Odisha Civil Service (Rehabilitation Assistance) Rules, 1990 (for short '1990 rules'). The notification dated 13th September 1990 was issued in exercise of powers conferred by the proviso to Article 309 of the Constitution of India and the State Government through Governor made the 1990 rules to regulate recruitment to the state civil services and posts as a measure of rehabilitation assistance. The said rules were made applicable to the member of the family as specified in rule 2(b). As per rule 8, application was required to be made in Form A to the appointing authority under whom the deceased government servant had last worked. As prescribed in 1990 rules, on receiving application,

the report has to be requisitioned from the Collector of the district to ascertain whether the family is in financial distress. On receipt of the report, the appointing authority shall issue an order of appointment if the report is in favour, on the available vacancy. The appointment as specified therein shall be subject to rule 9 of the said rules.

5. In the year 2016, the 1990 rules were amended substituting rule 8. Thereafter, on 17th February 2020, Odisha Civil Services (Rehabilitation Assistance) Rules, 2020 (for short '2020 rules') were notified substituting the 1990 rules. Rule 6 thereof prescribes mode of appointment and the process to be followed for appointment as specified in rule 6(9) whereby it was made clear that the pending cases as on the date of publication of these rules shall be dealt with in accordance with provision of 2020 rules.

6. Being aggrieved by the correspondence made by the department to deal with the application of rehabilitation assistance in accordance with 2020 rules in the cases where employees have died during subsistence of 1990 rules, writ petitions were filed which were disposed with the directions as referred above. The High Court made it clear that the date of death of the deceased employee would be relevant factor and the case of the respondents shall be considered applying the 1990 rules and not as per 2020 rules. It was also made clear that respondents would not be entitled to claim appointments retrospectively.

7. Being aggrieved these appeals were preferred by the State, challenging the directions, wherein after issuance of notice and grant of stay, during hearing the State Government through the Advocate General gave an assurance regarding formulation of a new policy with the intent to provide benefit to the respondents as directed by the High Court under the rules prevalent at the time of death of the employee. Learned Advocate General has produced the amendment rules which were notified on 04.04.2025, issued by the General Administration & Public Grievance Department of the State of Odisha amending sub-rule (9) of Rule 6 of 2020 rules.

8. In view of the assurance given by the learned Advocate General for the State of Odisha, this Court in this proceeding dated 21.04.2025 issued the following directions: -

> "1) Learned Advocate General appearing for the State of Odisha has produced Notification dated 04.04.2025 making

amendment in sub-Rule 9(a) of Rule 6 of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020.

2) It is stated before us that except the cases covered by the block grants Schools and Colleges, all other cases would be governed by these Rules and the Government is benevolent to extend the benefit of rehabilitation assistance to them; therefore, the amendment has been brought into the Rules.

3) It is further stated by him that he shall produce a list of cases which are governed by these Rules and do not fall in the category under block grant schools/colleges.

4) The said list be published on the website (GA.ODISHA.GOV.IN) on or before 28th April, 2025, whereby the counsel for respondents may identify those cases which are covered by these Rules.

5) The said list be furnished to the Registry immediately on the next date of publication, that is, on 29th April, 2025.

6) Registry to list these cases in two separate bunches: one which are covered by this amendment to the Rules and the other, which are not covered."

9. In furtherance, list of cases of the schools and colleges not governed by block grant has been placed before the Registry and all those cases are being heard and decided by this order.

10. In the context of controversy wherein by the order of the Government to apply 2020 rules in the case of death occurred prior to commencement of those rules, has been dealt with by Odisha Civil Services (Rehabilitation Assistance) Amendment Rules, 2025 (for short "2025 rules") whereby rule 6(9) was substituted adding rule 9 (a), (b) and (c). The said rules are relevant to the case in hand, therefore, reproduced as thus:

"(9) (a) All pending applications, relating to death of Government employee prior to the date of commencement of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020 shall be dealt in accordance with the rules prevailing on the date of death of Government employee for appointment under Rehabilitation Assistance Scheme:

> Provided that in case the death of Government employee occurred on or after commencement of the Odisha Civil Service (Rehabilitation Assistance) Amendment Rules, 2016 and before commencement of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020, shall be governed by the provisions of the Odisha Civil Service (Rehabilitation Assistance) Rules, 1990.
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> (b) In case the death of Government employee occurred prior to commencement of the Odisha Civil Service (Rehabilitation Assistance) Amendment Rules, 2016, shall be dealt on the basis of distress certificate available in the existing or original application as per the Odisha Civil Service (Rehabilitation Assistance) Rules, 1990.
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> (c) In case the death of Government employee occurred on or after commencement of the Odisha Civil Service (Rehabilitation Assistance) Amendment Rules, 2016 and before commencement of the Odisha Civil Services (Rehabilitation Assistance) Rules, 2020, the appointing authority shall ascertain the present financial distress of the family by calling for a report from Collector of the district in which the family ordinarily resides, as to whether the family is in financial distress as per the provisions of rule 8 of the Odisha Civil Service (Rehabilitation Assistance) Rules, 1990.
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> **Explanation for the distress certificate prescribed under clause (c). -** The total annual family income from all sources excluding Family pension and temporary increase must not exceed Rs.1,91,000/- (Rupees One Lakh and Ninety-One Thousand) for a family to be in a 'distress condition'.".

11. Learned Advocate General appearing for the State has assured that the officers of the State shall apply the notification dated 04.04.2025 referred above *mutatis mutandis* in the case of all the respondents and the dispute regarding the grant of appointment under the 2025 rules as applicable on the date of death would be considered in terms of the directions, if any, issued by this Court.

12. After hearing the learned Advocate General and learned advocates appearing for respondents and bestowing our consideration, in our view, the directions issued in the order impugned finds force from the amended rules notified on 04.04.2025 referred above. Therefore, we are inclined to maintain the order of the High Court and to dispose of all these appeals with the following directions:

    (i) The respondents are at liberty to submit an application, if not already submitted, within a period of twelve weeks, to the jurisdictional authorities along with requisite documents as specified in the notification dated 04.04.2025.

    (ii) In the cases where application has already been submitted and any additional documents are required to be submitted, the same be furnished to the authority in reference to their pending application or in reference to the demand, made by the authority if any, within the same period of twelve weeks.

    (iii) On receiving the applications as mentioned above, the appropriate authority shall examine the cases of individual respondent in terms of the 2025 amended rules and pass appropriate order. It is needless to say that the applications, so filed, shall not be rejected on technical grounds and shall be considered sympathetically strictly in accordance with the Rules.

    (iv) In case the post is available, the competent authority shall pass an order of appointment, otherwise the procedure as prescribed in the relevant rules shall be followed and thereafter the respondents be permitted to join their duties within the time specified.

    (v) It is also clarified that the appointment already granted by the Government extending the benefit of Rehabilitation Assistance Scheme shall remain unaffected by the directions as contained hereinabove.

    (vi) In case the claim of individual respondent is rejected by the authorities, they are at liberty to take recourse of law as is permissible.

    (vii) The directions as issued hereinabove shall apply *mutatis mutandis* in all pending cases. The aspirants are not required to take recourse until their claim is rejected. Pending writ

petitions before High Court, if any, shall also be disposed of in accordance with the directions issued above.

(viii) Accordingly, the present appeals are disposed of. Pending applications, if any, shall also stand disposed of.

Result of the case: Appeals disposed of.

†*Headnotes prepared by:* Nidhi Jain