

# PART I

## RULES

### THE ORISSA CIVIL SERVICE (REHABILITATION ASSISTANCE) RULE, 1990

#### GENERAL ADMINISTRATION DEPARTMENT

#### NOTIFICATION

The 13th September 1990

(Published in the *Orissa Gazette* on the 24th September 1990)

No. 25585 -Gen. – In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Orissa hereby makes the following rules to regulate recruitment to the State Civil Services and posts as a measure of rehabilitation assistance, namely :-

Short Title and commencement.

1. (1) These rules may be called the Orissa Civil Service (Rehabilitation Assistance) Rules, 1990.

(2) They shall come into force on the date of their publication in the *Orissa Gazette*.

Definitions

2. In these rules, unless the context otherwise requires -

(a) 1[‘Deserving Case’ means a case where the appointing authority is satisfied, after making such enquiry as may be necessary :-

(i) that the death of the employee has adversely affected his family financially because the family has no other alternative mode of livelihood;

(ii) that there is existence of distress condition in the family after death of the employee;

(iii) that none of the family members of the employee who has died while in service is already in the employment of Government/Public or Private Sector or engaged in independent business with an earning [above Rs. 20, 000 Rupees twenty thousand ] a year; and

**As per OCS (Rehabilitation Assistance) amendment rules, 2008 vide G.A. Deptt. Notification No. 31537, dt. 29.12.2008 amended-** in clause (iii), for the words “above Rs. 20, 000 (Rupees twenty thousand) a year; “ the following words shall be substituted namely :-

**“capable to tide over the distress condition of the family arising out of the sudden death of the employee”**

(iv) that the family does not have adequate income from the immovable properties to earn its livelihood.]

*Explanation* – The income of any earning member will be taken into account for the purpose of assessing the annual gross income of the family if his separation from the family has not been established by registered partition deed made prior to the death of the Government employee.

**As per OCS (Rehabilitation Assistance) amendment rules, 2008 vide G.A. Deptt. Notification No. 31537, dt. 29.12.2008 amended-** in existing explanation shall be renumbered as “ Explanation –I thereof and after “Explanation-I” as so renumbered, the following shall be inserted namely, “Explanation-II”

**The total family income from all sources excluding family pension and temporary increase must not exceed Rs. 72,000/-(Rupees seventy two thousand) only for a family to be in a “distress condition”.**

(b) ‘Family Members’ shall mean and include the following members in order of preference -

- (i) Wife/Husband;
- (ii) Sons or step sons or sons legally adopted through a registered deed;
- (iii) Unmarried daughters and unmarried step daughter;
- (iv) <sup>2</sup>[Widowed daughter or daughter-in-law residing permanently with the affected family.]
- (v) Unmarried or widowed sister permanently residing with the affected family;
- <sup>3</sup>(vi) Brother of unmarried Government servant who was wholly dependent on such Government servant at the time of death]

1. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998 published in *Orissa Gazette* and given effect to from the 8th October 1998.
2. Substituted vide G. A. Department Notification No. 16289, dated the 26th July 1993 and given effect to from the 24th October 1990.
3. Inserted vide G. A. Department Notification No. 26303, dated the 6th October 1999 and given effect to from the 1st October 1999.

- (c) Government means the Government of Orissa;
- (d) <sup>1</sup>[\*\*];
- (e) <sup>2</sup>[‘Rehabilitation Assistance’ means the assistance provided under these rules to a member of the family of Government servant who died while in service];
- (f) ‘Year’ means the calendar year.

**Applicability**

3. <sup>3</sup>[The assistance shall be applicable to a member of the family of the Government servant who dies while in service.]

**Objective of the scheme.**

4. <sup>4</sup>[The rehabilitation assistance is conceived as a compassionate measure of saving the family of a Government servant from immediate distress when the Government servant suddenly dies while in service. The concept is based on the premises that in case of sudden death his family would not face starvation. The scheme has a direct relationship with the economic condition of the family of the Government servant. Appointment of the family member of the Government servant under these rules shall be subject to the provisions contained in Rule 9 and can not be claimed as a matter of right.]

**Appointment to be made in deserving cases.**

5. <sup>5</sup>[ In deserving cases, a member of the family of the Government servant who dies while in service. may be appointed to any Group C or Group D posts only by the appointing authority of that Deceased Government servant provided he/she possesses requisite qualification prescribed for the post in the relevant recruitment rules or instructions of the Government without following the procedure prescribed for recruitment to the post either by statutory rules or otherwise irrespective of the fact that recruitment is made by notification of vacancies to the Employment Exchange or through recruitment examination under relevant recruitment rules. At the time of notifying such vacancies to the Employment Exchange or the examining authority, the employer shall clearly mention that the vacancy is proposed to be filled up under rehabilitation assistance scheme and so, sponsoring of candidates by Employment Exchange or the examining authority is not necessary.]

**Authority competent to make compassionate appointment.**

6. The authority competent to make substantive appointment to the post shall be the competent authority to make appointment under these rules.

Posts to which such appointment can be made.

7. <sup>6</sup>[Appointment under these rules shall be made once against any post either in Group C or Group D which is a base post in the said groups and the maximum scale of pay for such posts in Group C and Group D shall not exceed Rs. 6, 000 and Rs. 3, 200 respectively, as revised by the Government from time to time, when a member of the family has been appointed to a particular post, no further claim shall be entertained for appointing the same person to a higher post. For any further advancement in service, he will have to take his chance in the normal course and compete with other eligible persons.]

Mode of appointment.

8. (1) (a) <sup>7</sup>[Application for an appointment shall be made in Form A to these rules to the appointing authority under whom the deceased Government servant last worked, by registered post with A. D.]

(b) On receipt of the application the appointing authority shall send a requisition to the Collector of the district in which the family ordinarily resides calling for a report as to whether the family is in financial distress.

(c) On receipt of a requisition from the appointing authority under Rule 8 (b). the Collector of the district concerned shall cause an enquiry into the matter and furnish his report to the appointing authority within one month from the date of receipt of the requisition.

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1. Omitted vide G. A. Department Notification No. 28761, dated the 7th October 1998.
  2. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998.
  3. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998.
  4. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998.
  5. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998.
  6. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998.
  7. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998.

(d) The appointing authority, upon receipt of the report, shall consider the same and in case of favourable report, appoint the applicant in a suitable available vacancy under his control. If a vacancy does not exist under his administrative control, the appointing authority may forward the application to the Head of the Department with suitable recommendations. The Head of the Department shall locate vacancies in other offices under his administrative control and direct Head of the Office where there is a vacancy to appoint the applicant. If no vacancy is immediately available the application shall be considered for the immediate subsequent vacancy. In cases arising in offices of Heads of Departments, the Head of the Department shall appoint the candidate in his office or in the offices subordinate thereto.

(e) In the case, of the Departments in the Secretariat or the attached Offices the appointing authority, on receipt of application shall refer the case to the concerned Collector for enquiry and report as specified in Clauses (b) & (c) above and on receipt of the report of the Collector under Clause (i) of sub-rule (1) shall follow the procedure as specified hereunder, namely :-

- (i) The concerned Department may appoint the candidate against any post available under its control in the Department not being one in common cadre of the Secretariat.
- (ii) In case of non-availability of suitable post, the Department may direct the Heads of Departments under its control to appoint the candidate against any suitable post under their control.

(iii) If it is proposed to appoint the candidate against a post in any common cadre of the Secretariat administered by the Home Department, the Administrative Department may forward the application with suitable recommendations to the Home Department who shall take steps to appoint the candidate against a suitable post in the common cadre.

(2) Notwithstanding anything contained in Clause (b) of sub-rule (1) if the report of the Collector cannot be received within one month from the date of reference, the appointing authority may <sup>1</sup>[\*\*] appoint the applicant subject to the condition that in case of adverse report made by the Collector, his services will be terminated without assigning any reason thereof.

Condition of service.

9. (1) Appointment under these rules can be made only against the posts required to be filled up by direct recruitment and not against promotional posts.

(2) <sup>2</sup>[Subject to the provisions contained in sub-rule (3) the applicant for appointment to a particular post, under the rehabilitation assistance scheme, must have the requisite qualifications as prescribed in the relevant recruitment Rules (1) Resolutions or Instructions regulating the recruitment to the said post.]

(3) <sup>3</sup>[Where a widow of the deceased Government servant is appointed on compassionate ground against a Group D post, she is not required to satisfy the educational qualification prescribed for the said post, provided the duties attached to the post can be satisfactorily performed without having the requisite educational qualification.]

(4) <sup>4</sup>[Family of a Government servant who dies while on re-employment or extension of service, shall not be eligible for any benefit under these rules.]

(5) <sup>5</sup>[\*\*]

(6) <sup>6</sup>[Application for appointment under these rules shall be considered if it is received within one year from the date of death of the Government servant.]

(7) <sup>7</sup>[If at the time of death of the Government servant, there is ward who is minor and who alone is available in the family of the deceased Government servant for employment, he/she shall apply for job under these rules on attaining the age of eighteen years and in no case beyond three years from the date of attaining the age of eighteen years.]

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1. Omitted vide G. A. Department Notification No. 28761, dated the 7th October 1998.

2. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998.

3. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998.

4. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998.

5. Omitted vide G. A. Department Notification No. 28761, dated the 7th October 1998.

6. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998.

7. Substituted vide G. A. Department Notification No. 26303, dated the 6th September 1999.

(8) The assistance shall not be available to the families of Government servants who died <sup>1</sup>[\*\*] before issue of Labour & Employment Department Resolution No. 17188, dated the 9th September 1976, in respect of posts which are filled up by reference to the Employment Exchange and before issue of G. A. Department Resolution No. 21684-Gen., dated the 9th September 1982, in respect of posts filled up in pursuance of provisions in the relevant service rules.

(9) In exceptional cases, the maximum age limit may be relaxed by the competent authority in accordance with provisions of the Orissa Service Code.

(10) Before issue of appointment order the appointing authority shall ensure the production of the following documents :-

- (i) Submission of Medical Certificate of Health,
- (ii) Verification of Character and antecedents in respect of appointments in Departments of Government and Heads of Departments.
- (iii) <sup>2</sup>[Character Certificates from two officers of Government not below the rank of Group B Government servant.]
- (iv) Submission of undertaking that he/she has only one spouse living, if he/she is married.
- <sup>3</sup>(v) Submission of undertaking through affidavit to the effect that he/she shall maintain the family members of the deceased Government servant excepting the member who is self sufficient as an earner and who is otherwise separate from the family after partition through a registered deed or after marriage.]

(11) <sup>4</sup>["Notwithstanding the period of limitation prescribed in sub-rule (6) delay not exceeding twelve months in submission of application for appointment under these rules may be condoned by the Administrative Department and delay exceeding 12 months may be condoned by the Chief Minister.]

**Termination of services.**

10. Suppression of correct information or furnishing of false information in the application shall render the applicant liable for removal from service in addition to other legal action to which he/she may be liable under the existing laws and this will also debar other members of his family from getting appointment under these rules.

<sup>5</sup>[10. A. If any person after execution of an undertaking under clause (v) of sub-rule (10) of the said Rule 9 violates the terms as specified therein the same act would amount to gross misconduct for imposition of major penalty by the appointing authority.]

11. <sup>6</sup>[\*\*]

**Repeal and Savings.**

12. All instructions corresponding to these rules and in force immediately before the commencement of these rules are hereby repealed.

Notwithstanding such repeal any order passed or action taken under the instructions so repealed shall be deemed to have been made or taken under the corresponding provision of these rules.

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1. Omitted vide G. A. Department Notification No. 28761, dated the 7th October 1998.

2. Substituted vide G. A. Department Notification No. 28761, dated the 7th October 1998.

3 & 5. Inserted vide G. A. Department Notification No. 12627, dated the 12th April 2001.

4. Substituted vide G. A. Department Notification No. 26303, dated the 6th September 1999.

6. Deleted vide G. A. Department Notification No. 28761, dated the 7th October 1998.

13. Seniority of persons, appointed under these rules, in the grade or cadre of the service or posts in which the appointment is made shall be fixed below the persons recruited and appointed in that grade or cadre in that year as per the provisions of the relevant recruitment rules framed under Article 309 of the Constitution and in other cases according to their date of joining in the post.

**Interpretation.**

14. If any question arises relating to the interpretation of any provision of these

**Overriding  
Effect.**

rules, it shall be referred to the Government in General Administration Department for a decision.

15. The provision of these rules shall have effect notwithstanding anything to the contrary in any other recruitment rules made under the proviso to Article 309 of the Constitution including the Orissa ex-Service men (Recruitment to the State Civil Services and Posts) Rules, 1985.

<sup>1</sup>[16. (1) The State Government where satisfied that the operation of all or any provisions of these rules causes undue hardship in any particular case, it may dispense with or relax the provisions to such extent as it may consider necessary for dealing with the case in a just and equitable manner.

(2) Such cases shall be examined in General Administration Department and orders of Chief Minister shall be obtained.]

**By order of the Governor  
C. NARAYANASWAMY  
Special Secretary to Government**

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1. Inserted vide G. A. Department Notification No. 16289, dated 26-7-1993.

## **23 - ANNEXURE A**

**[(See Rule 8 (1) (a)]**

### **FORM OF APPLICATION FOR APPOINTMENT UNDER THE REHABILITATION ASSISTANCE SCHEME (TO BE SUBMITTED IN DUPLICATE)**

#### **PART I**

1. Name of the deceased Government Servant.
2. Designation and Office/Department of the Government Servant.
3. Whether permanent or temporary
4. Total length of Service rendered
5. Date of death (Enclose an attested copy of the death certificate issued by the Health & Family Welfare Department)
6. List of family members as per the legal heir certificate issued by the concerned Tahasildar.
7. Income and status of each of the legal heirs.
8. Is any of the members listed under item 6 has been appointed under compassionate ground ? If so, give particulars of such appointment.
9. Total assets of the deceased Government Servant
  - (a) Details of immovable property if any, in the name of deceased Government Servant and members of family.
  - (b) Movable property.
  - (c) Pension, family pension and T. I. ect.

#### **PART II**

10. Name of the candidate for appointment.
11. His/her relationship with the deceased Government Servant.
12. Date of birth.
13. Particulars of Educational/Technical qualification and experience, if any
14. Whether belongs to any of the following categories :-
  - (a) S. C. / S. T.
  - (b) EX-Servicemen
  - (c) Physically handicapped.
  - (d) Sportsmen.
15. The post applied for.

I, ..... Shri/Smt./Kumari  
..... Son/Daughter/Wife  
of Shri ..... hereby  
declare that the information furnished above is true to the best of my knowledge and belief. If any of the  
facts herein mentioned are found to be incorrect or false at a future date my services can be terminated by  
the appointing authority without furnishing notice or reasonable opportunity of hearing.

Date.....

Signature of the applicant

### PART III

Forwarded to Collector ..... for  
enquiry and report whether the family of the deceased Government Servant is in distress financially.

Appointing Authority

(Seal & Designation)

### PART IV

(Certificate by Collector of the district)

Certified that the information furnished by the applicant in this application from have been  
enquired into and found correct/incorrect. The family of the deceased Government employee is in  
distress/not in distress. The annual income of the family from all sources excluding pension and T. I. is  
Rs. .... For the year.....

Forwarded to the .....

(Appointing Authority)  
Collector & Dist. Magistrate  
(Seal & Designation)

(No authority except the Collector & Dist. Magistrate shall sign this Certificate)



**PART – II - INSTRUCTIONS**

No. 21684-Gen.

**GOVERNMENT OF ORISSA**  
**GENERAL ADMINISTRATION DEPARTMENT**  
**RESOLUTION**

The 9th September 1982

Subject – Rehabilitation Assistance to the family of deceased or permanently disabled Government servant who suffers such disability while in Government service.

In resolution No. 17188-118/3-21/76-L. E. II., dated the 9th September 1976 of the erstwhile Labour, Employment & Housing Department (copy enclosed) it had been decided that appointing authorities would be competent to give employment to a member of the family of a deceased or permanently disabled employer who suffers such disability while in the service of the employee irrespective of whether the name of the candidate is sponsored by the Employment Exchange or not. This enabling provision is being resorted to in deserving cases. However these instructions do not apply to posts which are filled up by other means of recruitment.

After careful consideration Government have been pleased to decide that it would be desirable to extend concession to all Class III posts and service irrespective of whether recruitment is by notification of vacancies to the Employment Exchange or otherwise, in other words in deserving cases a member of the family of a Government Servant who dies or is permanently incapacitated while in government service could be appointed to any Class III posts under the appointing authority of that Government servant provided he possesses the qualification prescribed for the post, without insisting on the prescribed mode of recruitment in his case. The relevant recruitment rule may be amended accordingly.

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Order – Ordered that this resolution be published in an extraordinary issue of the *Orissa Gazette* for general information and copies be forwarded to all Departments/Heads of Departments/all district offices/Secretary to the O. P. S. C.

**By order of the Governor**  
**C. NARAYANASWAMY**  
**Special Secretary to Government**

**ANNEXURE A**  
No. 17188-III/3-21/76-L. E. H.  
**GOVERNMENT OF ORISSA**  
**LABOUR, EMPLOYMENT & HOUSING DEPARTMENT**  
**RESOLUTION**  
The 9th September 1976

Subject – Compulsory notification of vacancies and recruitment through Employment Exchange Special procedure to provide rehabilitation assistance to the families of employees who suffer permanently incapacitation or death while in service.

The State Government in their resolution No. 15-L. E. H., dated the 19th November 1975 have issued instructions laying down the procedure to be followed by Government Departments, Local Bodies, Quasi Government agencies, Statutory Bodies, Public Sector Enterprise and all Private Sector Establishments employing more than 1,000 persons in the matter of personnel recruitment. The basic policy underlying those instructions is that all vacancies, except those specifically excluded, are required not only to be notified to the Employment Exchange, but are also to be filled up from among candidates sponsored by the Exchange unless the latter furnishes a non-availability certificate.

In industrial establishments a practice is ordinarily followed that in the case of premature death or permanent incapacitation of an employee for purposes of service, due to accident or otherwise, employment is given on a preferential basis to a member of the family in distress. Similar contingencies arise in Government Offices also. The practice of Providing employment as a measure of rehabilitation assistance to the family of a deceased or permanently disabled employee is a salutary one, and Government desire that such practice should increasingly be followed by all employing agencies. Since provision of employment on a preferential basis in such circumstances requires relaxation of the Employment Exchange procedure laid down in the resolution referred to above, government have been pleased to direct that the following special procedure should be followed in the matter of providing rehabilitation assistance.

Notwithstanding the instructions contained in resolution No. 19479-L. E. H., dated the 19th November 1975 appointing authorities would be competent to give employment to a member of the family of a deceased or permanently disabled employee who suffers such disability while in the service of the employer in question, irrespective of whether the name of the candidate is sponsored by the Employment Exchange. Notification of vacancies required under the Employment Exchanges (C. N. V.) Act being Mandatory, the establishment concerned is not absolved of the responsibility to notify to the Employment Exchange the occurrence of the vacancies. But at the time of notifying such vacancies the employer should clearly mention that since the vacancy is proposed to be filled by a member of the family of a deceased/permanently disabled employee whose disability occurred while in service, sponsoring action by the Employment Exchange is not necessary.

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Order – Ordered that this resolution be published in an extraordinary issue of the *Orissa Gazette* for General information.

**By order of the Governor**  
**S. KANUNGO**  
**Secretary to Government**

No. 20306-VIE/ABI/85-EYS.  
**GOVERNMENT OF ORISSA**  
**EDUCATION & YOUTH SERVICES DEPARTMENT**  
**RESOLUTION**  
The 20th May 1985

Subject – Rehabilitation assistance to the families of non-Government Primary School Teachers under Education & Youth Service Department who die or suffer from permanent incapacitation while in service.

Government have had under consideration for some times past a proposal for providing rehabilitation assistance to members of the families of a non-Government Primary School Teacher who dies or becomes permanently incapacitated for work while in service. After careful consideration Government have been pleased to decide that rehabilitation assistance may be made available to a member of the family of the deceased or permanently disabled non-Government Primary School Teacher subject to the following conditions :-

1. Once member of the family of the deceased or permanently disabled non-Government Primary School Teacher would be eligible for appointment in a Class III or Class IV post under Government including a post of Primary School Teacher or as the Primary School Teacher in a non-Government Primary School, subject to the condition that the member of the family who seeks to avail of this facility possesses the requisite educational or technical qualifications required for the post. If such a person seeks appointment as a Primary School Teacher whether in a Government or in a non-Government Primary School, he may be appointed as such if he possesses the requisite educational qualifications. If such a person does not possess the requisite training qualification, he/she shall be required to acquire the necessary training qualification within a period of three years from the date of appointment as a Teacher in a Primary School. An untrained person appointed as a Primary School Teacher would receive pay in the scale applicable to untrained matriculate teachers till he/she acquires the training qualifications.

2. The above facilities will be available to only one member of the family of the deceased or permanently disabled Primary School Teacher provided that the death or permanent disability has occurred prior to the normal date of superannuation and not during the period of re-employment or extension of service after retirement.

3. For the purposes of rehabilitation assistance being extended under this Resolution, the members of the family of the deceased or permanently disabled Primary School Teacher shall mean

- (a) husband or wife;
- (b) son or daughter including adopted son or daughter, step son or daughter.
- (c) Dependent brother or sister.

4. Applications for assistance under this Resolution shall ordinarily be received within the period of five years from the date of death or permanent disability.

5. Notwithstanding the instructions contained in Labour & Employment Department Resolution No. 19479-L. E. H., dated the 19th November 1975, appointing authorities would be competent to give employment to a member of the family of a deceased or permanently disabled employee who suffers such disability while in the service of the employer in question, irrespective of whether the name of he candidate is sponsored by the Employment Exchange. Notification of vacancies required under the Employment Exchanges (C. N. V.) Act, being mandatory the establishment concerned is not absolved of the responsibility to notify to the Employment Exchange the occurrence of the vacancies. But at the time of notifying such vacancies the employer should clearly mention that since the vacancy is proposed to be filled by a member of the family of a deceased/permanently disabled employee whose disability occurred while in service sponsoring action by the Employment Exchange is not necessary.

6. Rehabilitation assistance would be available only for initial appointment and not for promotion or further advancement in service.

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Order – Ordered that the Resolution be published in an extraordinary issue of the Orissa Gazette for information of general public and copies be forwarded to all Departments/Heads of Departments/all Collectors.

**By order of the Governor**  
**R. C. SAMAL**  
**Additional Secretary to Government**

No. 13781-Gen.  
**GOVERNMENT OF ORISSA**  
**GENERAL ADMINISTRATION DEPARTMENT**  
Dated the 3rd May 1988

To

All Departments of Government  
All Heads of Departments  
All Collectors.

Subject – Rehabilitation Assistance to the families of deceased or permanently disabled Government servant who die or suffer the disability while in service.

Some guidelines were prescribed in G. A. Department Memo. No. 24052, dated the 19th October 1983 for providing rehabilitation assistance to the families of Government servants who die or suffer permanent incapacitation while in service. The list of family members entitled to get such benefit under the scheme was defined in this Department Memo. No. 4192, dated the 18th February 1984.

Difficulties are being experienced by some of the appointing authorities to extend such benefit to an adopted son/daughter of the deceased or permanently incapacitated employee, since adopted son/daughter has not been included in the list of family members.

It has now been decided that an adopted son/daughter of a deceased or permanently disabled Government employee may be accepted as a member of the family of such Government servant for rehabilitation purpose provided the adoption has been legally perpetuated through a registered deed.

The above clarifications may be brought to the notice of all officers under your control.

**B. B. MISHRA**  
**Joint Secretary to Government**

No. 4569-SC-6-1/93-Gen.  
**GOVERNMENT OF ORISSA**  
**GENERAL ADMINISTRATION DEPARTMENT**  
Dated the 22nd February 1993

To

All Departments

All Heads of Departments

All Collectors.

Subject – Orissa Civil Service (Rehabilitation Assistance) Rules, 1990.

Procedures for appointment of family members of the deceased/disabled employees under the rehabilitation assistance scheme have been laid down under Orissa Civil Service (Rehabilitation Assistance) Rules, 1990. A doubt arose as to whether a widow appointed under the said scheme will lose her job if she gets re-marriage.

After careful consideration Government have been pleased to decide that a widow, appointed under the said scheme will be allowed to continue in service even after her re-marriage. All subordinate offices may be intimated accordingly.

**M. B. K. RAO**  
**Deputy Secretary to Government**

[ No. 27924-SC-6-52/95-(Pt.)-Gen. ]  
**GOVERNMENT OF ORISSA**  
**GENERAL ADMINISTRATION DEPARTMENT**  
The 24th October 1996

From

Shri T. S. Chakraborty,  
Under-Secretary to Government.

To

The Additional District Magistrate,  
Ganjam.

Subject – Issue of clarification regarding providing employment under R. A. Scheme.

Sir,

In inviting a reference to your Letter No. 5775, dated the 29th August 1996 on the subject noted above I am directed to say that the membership of the family of an employee, who dies while in service or who retires on the ground of permanent incapacitation, is decided on the basis of the status of the family concerned on the very day of death or invalid retirement for the purpose of rehabilitation assistance scheme as per Rule 2 (b) of O. C. S. (R. A.) rules 1990. It means that the persons who were not separated from the family as per procedure established by law on or before the date of death or retirement of the Government servant concerned cannot be said to have been separated from the family for the purpose of determination of family members under the O. C. S. (R. A.) Rules, 1990 as amended up-to-date. Hence, any separation or adoption deed executed and registered after the date of death or invalid retirement of an employee cannot be taken into consideration for the purpose of providing employment under R. A. Scheme to any one of his family members.

Yours faithfully,  
**T. S. CHAKRABORTY**  
Under-Secretary to Government

[ No. 29686-SC.-6-71/97-(Pt.)-Gen. ]

**GOVERNMENT OF ORISSA**  
**GENERAL ADMINISTRATION DEPARTMENT**  
**RESOLUTION**

(Published in *Orissa Gazette* on 15th October 1998)

The 14th October 1998

Subject – Applicability of the provisions laid down in the Orissa Civil Service (Rehabilitation Assistance) Rules, 1990 to the families of non-Government Primary School Teachers. Teaching and non-Teaching staff of Aided Educational Institutions, Work Charged employees of the State Government and the employees of Public Sector Undertakings under the control of the State Government.

In order to ensure that the family members of a Government servant who dies while in service or retires on the grounds of permanent incapacitation, does not face immediate distress condition, the Orissa Civil Service (Rehabilitation Assistance) Rules, 1990 were framed under the proviso to Article 309 of the Constitution of India and the said rules came into force with effect from the 24th September 1990 vide General Administration Department Notification S. R. O. No. 394/90, dated the 13th September 1990.

The facilities provided under the above said rules were also made applicable to the families of (i) non-Government Primary School Teachers, (ii) Teaching and non-Teaching Staff of Aided Educational Institutions under the Education Department, (iii) the work charged employees of the State Government and (iv) the employees of Public Sector undertakings under the State Government. Law Department have advised now that under the proviso to Article 309 of the Constitution of India, rules can be framed by the Governor concerning the Services and Posts in connection with the affairs of the State Government and not otherwise.

Thus, rules concerning the employees of the non-Government Primary Schools, Aided Educational Institutions, Work charged Employees and Public Sector Undertakings cannot be framed under the proviso to Article 309 of the Constitution of India.

Therefore, on the advice of Law Department, Rule 11 has been deleted from the O. C. S. (Rehabilitation Assistance) Rules, 1990. But since Rehabilitation Assistance is conceived as a compassionate measure of saving the family of a deceased employee from immediate distress when the employee suddenly dies while in service, Government after careful consideration have decided that the benefit of Rehabilitation Assistance Scheme which has been extended for the family members of non-Government Primary School Teachers, Teaching and non-Teaching staff of Aided Educational Institutions under the Education Department, the work charged employees of the State Government and the employees of the Public Sector Undertakings under the State Government previously should continue. Hence it is ordered that the provisions laid down in the Orissa Civil Service (Rehabilitation Assistance) Rules, 1990 as amended from time to time shall *mutatis mutandis* be applicable to the families of the employees of the above categories with effect from the 24th September 1990.

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Order – Ordered that the resolution be published in the extraordinary issue of the *Orissa Gazette*. Ordered also that copies of the Resolution be forwarded to All Departments of Government/All Heads of Departments/ Secretary to Governor/All Collectors/Registrar, Orissa High Court/Special Secretary, Orissa Public Service Commission/Secretary, Orissa Staff Selection Commission/Registrar, O. A. T.

**By order of the Governor**  
**PRIYABRATA PATNAIK**  
**Special Secretary to Government**



[ No. 39937-SC-6-71/97-(Pt.)-Gen. ]

**GOVERNMENT OF ORISSA**  
**GENERAL ADMINISTRATION DEPARTMENT**

From

Shri Priyabrata Patnaik, I. A. S.,  
Special Secretary to Government.

To

All Departments of Government  
All Heads of Departments  
All Collectors.

The 30th November 1998

Subject – Amendment to Orissa Civil Service (Rehabilitation Assistance) Rules, 1990 Clarification thereof.

The undersigned is directed to say that consequent upon amendment of Orissa Civil Service (Rehabilitation Assistance) Rules, 1990 vide General Administration Department Notification No. 28761/Gen., dated the 7th October 1998, read with Resolution No. 29686, dated the 14th October 1998 a number of reference have been received from different quarters seeking clarification regarding interpretation of Rules 10 of the Orissa Civil Service (Rehabilitation Assistance) Amendment Rules, 1998 with regard to the action to be taken in respect of cases of disabled Government employees which are pending prior to the 8th October 1998 and with regard to inclusion of pension and T. I while assessing the annual income of the family of the deceased employee.

After careful consideration of the references received it is clarified that :

- (i) The Orissa Civil Service (Rehabilitation Assistance) Amendment Rules, 1998 came into force with effect from the 8th October 1998 i.e. the date on which they have been published in the extraordinary of the *Orissa Gazette* and hence these Amendment Rules have no retrospective effect. Therefore cases already disposed of either affirmatively or negatively prior to 8th October 1998 shall not be reopened.
- (ii) Cases which have already been initiated as per the provisions laid down in Orissa Civil Service (Rehabilitation Assistance) Rules 1990 prior to 8th October 1998 and are still pending shall be examined and disposed of as per the provisions contained in the rules as they stood before the amendments i.e. prior to 8th October 1998.
- (iii) In part IV of the prescribed application form appended to the Orissa Civil Service (Rehabilitation Assistance) Amendment Rules, 1998, the words “including pension and T. I.” shall be read as “excluding pension and T. I.”
- (iv) Distress certificates may be issued in old forms in favour of the family of disabled/deceased employees, whose applications are pending prior to commencement of the Orissa Civil Service (Rehabilitation Assistance) Amendment Rules, 1998.

These clarifications should be brought to the notice of the all the subordinate offices under their control for their information and future guidance.

**By order of the Governor**  
**P. PATNAIK**  
**Special Secretary to Government**

No. 3033-SC-6-1/99-Gen.

**GOVERNMENT OF ORISSA**  
**GENERAL ADMINISTRATION DEPARTMENT**

Dated the 28th January, 1999

To

All Departments of Government  
All Heads of Departments  
All Collectors.

Subject – Appointment of family members of the deceased employees under Rehabilitation Assistance Scheme Rulings of the Hon'ble Supreme Court of India.

The undersigned is directed to say that the Hon'ble Supreme Court in its judgements as indicated below has observed various aspects in the matter of appointment of family members of the deceased employees under Rehabilitation Assistance Scheme. The rulings of the Supreme Court which are reproduced below may be kept in view while considering cases of compassionate appointment :-

- (a) The Supreme Court in its judgement dated April 8-1993 in the case of Auditor General of India and others-Vrs-G. Anant Rajeswar Rao [(1994) I-SCC-192] has held that appointment on grounds of descent clearly violates Article 16(2) of the Constitution : but if the appointment is confined to the son or daughter or widow of the Government servant who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable.
- (b) The Supreme Court's judgement, dated May 4, 1994 in the case of Umesh Kumar Nopgal, Vrs. State of Haryana and Other [Jt 1994 (3) S. C. 525] has laid down the following important principles in this regard :
  - (i) Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground.
  - (ii) The posts in group 'C' and 'D' formerly Class II and (IV) are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds and no other posts, i.e., in the Group 'A' or Group 'B' category is expected or required to be given for this purpose as it is legally impermissible.
  - (iii) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency.
  - (iv) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased Government servant is legally impermissible.
  - (v) Neither the qualification of the applicant (dependent family member) nor the post held by the deceased Government Servant is relevant. If the applicant finds it below his dignity to accept the post offered, he is free, not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.
  - (vi) Compassionate appointment can not be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.
  - (vii) Compassionate appointment can not be offered by an individual functionary on *ad hoc* basis.

- (c) The Supreme Court has held in its judgement, dated February 28, 1995 in the case of the Life Insurance Corporation of India *Vrs.* Miss. Asha Ramchandra Ambekar and others [J. T. 1994 (2) S. C. 183] that the High Courts and Administrative Tribunals can not give direction for appointment of a person on compassionate grounds but can merely direct consideration of the claim for such an appointment.
- (d) The Supreme Court has rules in the cases of Himachal Road Transport Corporation *Vrs* Dinesh Kumar [J. T. 1996 (5) S. C. 319] on May 7, 1996 and Hundustan Aeronautics Limited *Vrs.* Smt. A. Radhika Thirumalai [J. T. 1999 (9) S. C. 197] on October 9, 1996 that appointment on compassionate grounds can be made only if a vacancy is available for that purpose.
- (e) The Supreme Court has held in its judgement in the case of State of Haryana and others *Vrs.* Rani Devi and others [J. T. 1996 (6) S. C. 646] on July 15, 1996 that if the Scheme regarding appointment on compassionate ground is extended to all sorts of casual, *ad hoc* employees including those who are working as Apprentices, then such scheme can not be justified on constitutional grounds.

It is, therefore, requested that the above observations of the Hon'ble Supreme Court may be kept in view by the appointing authorities while considering the cases of appointments of family members of the deceased employees under Rehabilitation Assistance Scheme.

The subordinate offices under their control may be intimated accordingly.

**By order of the Governor**  
**PRIYABRATA PATNAIK**  
**Special Secretary to Government**

No. 11928-SC-6-56/98-Gen.

**GOVERNMENT OF ORISSA**  
**GENERAL ADMINISTRATION DEPARTMENT**

The 22nd April 1999

To

All Departments of Government  
All Heads of Departments  
All Collectors.

Subject – Clarification in respect of Orissa Civil Service (Rehabilitation Assistance) Rules, 1990.

The undersigned is directed to say that different Departments are submitting proposals to General Administration Department for obtaining orders of Chief Minister with regard to the availability of assistance of the scheme under Rule 9 (8) of the Orissa Civil Service (Rehabilitation Assistance) Rules, 1990 and for condonation of delay of the period of limitation prescribed in Rule 9 (11) of the Orissa Civil Service (Rehabilitation Assistance) Amendment Rules, 1992, After careful consideration of the matter, it has been decided by the Government in General Administration Department that in future, cases which come under the provisions laid down in Rule 9 (8) of the Orissa Civil Service (Rehabilitation Assistance) Rules, 1990 and Rule 9 (11) of the Orissa Civil Service (Rehabilitation Assistance) Amendment Rules, 1992 will be dealt with by the concerned Administrative Departments and they will obtain orders of Chief Minister without routing the proposals through the General Administration Department. Only such cases where operation of the existing rules cause under hardship then proposals will be submitted by the Department to General Administration Department for examination of such cases and obtaining orders of Chief Minister under the Relaxation provisions of Rule 16 of the Orissa Civil Services (Rehabilitation Assistance (Second Amendment) Rules, 1993.

**By order of the Governor**  
**PRIYABRATA PATNAIK**  
**Special Secretary to Government**

Memo. No. 41150-CCI. (S. C.)-15/99-CC.,

**GOVERNMENT OF ORISSA**

**HOME DEPARTMENT**

The 21st July 1999

To

All Departments of Government  
(Branch-wise)

Subject – Appointment of the wards of the deceased government servants under Rehabilitation Assistance Scheme.

The undersigned is directed to say that a good number of applications are being received in this Department from various Departments of Government to consider giving appointment to the wards of the deceased Government servants under Rehabilitation Scheme against the vacancies available in the Departments of Secretariat under common cadre of Junior Assistants and Junior Grade Typists, the cadres of which are being controlled by the Home Department.

Rule 8 (1) (d) of the Orissa Civil Services (Rehabilitation Assistance) Rules, 1990 provides that “the appointing authority, upon receipt of the report, consider the same and in case of favourable report, appoint the applicant in a suitable available vacancy under his control. The appointing authority may forward the applicant to the Heads of the Department with suitable recommendations. The Heads of the Department shall locate vacancies in other offices under his administrative control and direct the Heads of Office where there is a vacancy to appoint applicant. In cases arising in the offices of the Heads of the Department, the Heads of the Department shall appoint the candidates in his office or in the offices subordinate thereto.

In view of aforementioned clear provisions of the relevant Rules, early the responsibility of appointing persons under the Rehabilitation Scheme devolves either upon the concerned Administrative Department or lies with the Heads of the Department under whom the deceased Government servant was working.

The Home Department do not have any responsibility in this regard whatsoever, excepting in cases of the wards of the employees who die while in service in the common cadres of the Secretariat.

They are, therefore, requested not to recommend the cases of such appointments henceforth; which do not come within the purview of the Home Department as per the provision of O. C. S. (Rehabilitation Assistance) Rules, 1990.

[ILLEGIBLE]

**Commissioner-cum-Secretary to  
Government, Home Department**

No.33213-2M-15/2004  
GENERAL ADMINISTRATION DEPARTMENT

RESOLUTION

The 15th December 2004

Sub: Guidelines on determination of "Distress Condition" of the family of the deceased Government servant

as per provisions under OCS(RA) Rules, 1990 - clarification regarding.

Rehabilitation Assistance is conceived as a compassionate measure of saving the family of a Government servant from immediate distress on account of death of a Government servant while in service. The concept of providing employment to one of the family members of the deceased in deserving cases is based on the premise that in case of sudden death the family should not face starvation. "Deserving Case" has been defined u/R 2 (a) of the OCS(RA) Rules, 1990, as a case where the appointing authority is satisfied, after making such enquiry as may be necessary on the conditions outlined under Clauses (i) to (iv) of the said sub-rule, that the case deserves consideration.

2. It has come to the notice of the Government that different Appointing Authorities are interpreting the above rule differently, particularly the condition 2 (a) (ii) on the existence of distress condition, while determining "Deserving Case" for appointment under the Rehabilitation Assistance Scheme. As the objective of the scheme is to save the family from immediate starvation, it has direct relationship with the economic condition of the family of the deceased Government servant. Therefore, income derived from all sources including Family Pension and T.I. has to be taken into account while determining the distress condition of the family of the deceased Government servant. It has earlier been clarified in General Administration Department Circular Letter No. 6340/Gen., Dt.08.03.1991 that the family pension allowed to the members of the deceased Government servant will not count towards earning u/R 2 (a) (iii) of the OCS(RA) Rules, 1990. But Family Pension has to be certainly taken into account u/R 2 (a) (ii) of the said rules while determining the existence of distress condition of the family to determine deserving cases. But instead of acting as per clarifications issued, some Appointing Authorities have resorted to varying interpretations of the contents of General Administration Department Notification No. 28761 / Gen., Dt.07.10.1998, which required that Collector's Certificate to be given in Part-IV of the application form should mention annual income of the family from all sources excluding pension and T.I. The exclusion of 2 pension and T.I. in the Collector's Certificate was suggested on account of two reasons :

- i) Collector was not normally aware of the exact quantum of family pension and T.I. resulting in either delay in furnishing of certificate or furnishing of inaccurate information.
- ii) If the Collector's Certificate were to include Family Pension and T.I., there was a possibility of the Appointing Authority again adding Family Pension and T.I. leading to

double counting of income on this score.

3. It is, therefore, clarified that as per the prevailing practice, the Collector while submitting required report u/R 2 (a) (iii) of the OCS(RA) Rules, 1990 shall state the annual income of the family from all sources excluding Family Pension and T.I. (as only pension sanctioning authority is aware of the quantum of earning from the said source). In order to ensure uniform interpretation of "distress condition" (and therefore eligibility of the family as a "deserving case"), the Government have, after taking into account the fifth pay revision, been pleased to decide that total annual family income from all sources including Family Pension and Temporary Increase (T.I.) must not exceed Rs.45,000/- for a family to be in a distress condition. The calculation of Annual Family income may be done by the concerned Appointing Authority by adding the following :

- i) Family Pension and T.I. as sanctioned by the Pension Sanctioning Authority/ admissible.
- ii) Income of the family from all other sources as certified by Collector in part-IV of the application form. The Collector's report will exclude the family Pension + T.I. as per the current instructions.

4. All pending cases for Rehabilitation Assistance under the OCS(RA) Rules, 1990 shall be disposed of as per the above clarification.

**ORDER :**

Ordered that the resolution be published in the extraordinary issue of the Orissa Gazette. Ordered also that copies of the resolution be forwarded to all Departments of Government / all Heads of Departments / all Collectors / Registrar, Orissa High Court /Special Secretary, Orissa Public Service Commission, Cuttack / Secretary, Staff Selection Commission, Orissa, Bhubaneswar / Registrar, Orissa Administrative Tribunal, Bhubaneswar.

By order of the Governor  
T.K.PANDEY  
Special Secretary to Government

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