

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

R/LETTERS PATENT APPEAL NO. 1575 of 2024
In
R/SPECIAL CIVIL APPLICATION NO. 10812 of 2022
With
CIVIL APPLICATION (FOR STAY) NO. 1 of 2024
In
R/LETTERS PATENT APPEAL NO. 1575 of 2024

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA Sd/-

and

HONOURABLE MS. JUSTICE GITA GOPI Sd/-

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Approved for Reporting	Yes	No
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PROGRAM OFFICER, ICDS & ANR.
Versus
STATE OF GUJARAT & ORS.

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Appearance:

MR HEMANG S TRIVEDI(10045) for the Appellant(s) No. 1,2
MS SHRUTI DHRUVE, AGP for the Respondent(s) No. 1,2,3
MRS REKHA H KAPADIA(2246) for the Respondent(s) No. 4

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CORAM: HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MS. JUSTICE GITA GOPI
Date : 17/01/2025
ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. **ADMIT.** Learned AGP waives service of notice of admission on behalf of the respondent-State and learned advocate Mrs. Rekha H. Kapadia waives service of notice of admission on behalf of the respondent No.4.



2. Pursuant to the order dated 04.12.2024, the respondent no.4-original petitioner-Minaben Jamod was re-examined by the Medical Officer and accordingly, a Medical Fitness Certificate dated 19.12.2024 has been issued by the Medical Officer, PHC Zolapur, Taluka Sanand, District Ahmedabad. The same is produced alongwith further affidavit filed on behalf of the appellant. As per the Medical Fitness Certificate, the original petitioner is having 70% permanent disability.

3. The present appeal is directed against the order dated 15.04.2024 passed by the learned Single Judge allowing the writ petition filed by the respondent no.4. The respondent no.4 had prayed for quashing and setting aside the order dated 01.06.2022 passed by the appellant denying her appointment to the post of Aganwadi Worker as she was found unfit for duty due to her permanent disability. The learned Single Judge while setting aside the impugned order has directed the appellant to appoint her on the said post by primarily placing reliance on the medical certificate dated 28.03.2022 issued by the Community Health Center produced by the respondent no.4 at the time of document verification.

4. After perusal of the document dated 28.03.2022, since it was found that the same is not a 'medical fitness certificate', but only a medical examination of the respondent no.4, vide order dated 04.12.2024, we had directed the respondent no.4 to secure a



medical certificate from the competent authority. After undergoing necessary medical examination, the competent authority has issued the aforementioned medical certificate.

5. Learned advocate Mr. Hemang S. Trivedi, appearing for the appellant-authority while pointing out the job requirements/duties which are required to be undertaken by the Anganwadi worker and are specified in the Government Resolution dated 25.11.2019, has submitted that the respondent no.4 will be unable to carry out the sensitive duties of the Anganwadi worker involving infants and minor children.

6. Per contra, learned advocate Mrs.Kapadia has urged that the impugned order passed by the learned Single Judge may not be set aside, since the respondent no.4 is fit for carrying her duties as Anganwadi worker. It is submitted that the appellants have no power to examine the physical fitness of the respondent no.4, and they are only concerned with the medical certificate only.

7. The respondent no.4 applied for the post of honorarium Anganwadi worker pursuant to the advertisement dated 15.03.2002, and she was selected. However, upon the document verification, since it was found that she was suffering from 70% permanent disability, she was not offered appointment. It is the case of the appellants authority that she will be unable to perform her duties as Anganwadi workers due to her disability.



8. The appointment and the duties of the Aganwadi worker are governed by the Government Resolution dated 25.11.2019 issued by the Women and Child Development Department. Clause 7.14 of the said Resolution mandates that the selected candidate shall produce a Medical Fitness Certificate within two months from the date of reporting. The Medical Fitness Certificate dated 19.12.2024, issued by the Medical Officer, PHC Zolapur, Taluka Sanand, District Ahmedabad, shows that the respondent no.4 is having 70% permanent locomotor disability. It is also certified that she is “otherwise physically fit”.

9. Thus, it becomes essential to examine the nature of duties of the Aganwadi worker in light of the 70% permanent locomotor disability of the respondent no.4. We have perused the list of duties annexed at Appendix-1 to the Resolution and which are exhaustive in nature. Few of them are referred by us. An Anganwadi worker, is required to visit and examine the health and nourishment of the children, who are below three years of age. For children between 3 to 6 years of age, she has to see that they are properly given meals in the morning and noon, and they attend pre-school also. For physically challenged children, an Aganwadi worker has to refer them to medical screening. She also has to undertake the exercise of bringing and sending the children from home to school. She is also required to carry the infants for regular examination of their weight, and in case it is found that the child is weak and is having



low weight and suffering from medical complications, then she has to refer them to CMT/NRC. After such children are admitted in CHC/NRC for rehabilitation, she has to take follow-up every 15 days for 4 times. Her duties also involve interacting with the mother of such children and to see that they are properly breast fed. The care of mothers before and post-delivery, vaccination of child etc. is also required to be monitored. The duties also involve to contact public by homely visit and organize meetings for effective implementation of scheme. These are the vital duties, which are required to be performed by an Anganwadi worker. The learned Single Judge has erred by observing that the appellant-authorities were not required to examine the issue of medical fitness further, and they were only required to arrive at a conclusion that the medical certificate was adequate or not. As recorded hereinabove, the document which was projected by the respondent no.4-original petitioner is only her medical examination, and it cannot be termed as “Medical Fitness Certificate”. On coming to know that the respondent no.4 was having 70% locomotor disability, the appellants, had the authority to examine the suitability of the respondent no.4 regarding performing her duties which are very sensitive in nature.

10. Thus, after examination of the various duties and responsibilities involving wellbeing of infants/children and their mothers, we are of the opinion that, since the respondent no.4 is suffering from more than 40% of benchmark disability, as defined in sub-section 2(r) of The Right of Persons with Disabilities Act,



2016, it would not have been feasible for her to discharge them efficiently.

11. Hence, the present Letters Patent Appeal merits acceptance. The judgment and order dated 15.04.2024 passed by the learned Single Judge in Special Civil Application No.10812 of 2022 is quashed and set aside.

12. In view of the order passed in the main matter, as a sequel, the connected Civil Application stands disposed of.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(GITA GOPI, J)

CAROLINE / DB # 14