



2024:CGHC:48562

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 3654 of 2015****Order reserved on : 08.10.2024****Order passed on : 10.12.2024**

Smt. Satyawati Durgam W/o Shri S.K. Durgam, Aged About 30 Years, R/o Village Murdanda Block & Tahsil- Ussor P.S.- Ussor, District- Bijapur, Chhattisgarh.

----Petitioner**versus**

1 - State of Chhattisgarh, Through Secretary, Department of Women And Child Development Mantralaya, [REDACTED]

2 - Additional Director, Women And Child Development Directorate Women And Child Development, [REDACTED]

3 - Collector, [REDACTED]

4 - District Program Officer, Women And Child Development [REDACTED]

--- Respondents/State

For Petitioner : Mr. Anubhav Vatsa, Advocate appears on behalf of Mr. Atul Pandey, Advocate.

For Respondents/State : Mr. R. N. Pusty, G.A.

Hon'ble Smt. Justice Rajani Dubey**C A V ORDER**

1. The petitioner has filed this petition under Article 226/227 of the Constitution of India for seeking direction of the Hon'ble Court to respondent No. 4 to conduct an enquiry in accordance with the

order dated 01.07.2015 passed by respondent No. 2 regarding the experience marks to the petitioner for appointment to the post of Aangan Badi Karyakarta and praying for the following reliefs.

"10.1. That the Hon'ble Court may kindly be pleased to direct respondent No. 4 to conduct enquiry in accordance with the order dated 1/7/2015 passed by respondent No. 2 regarding the experience marks to the petitioner for appointment to the post of Aanganbadi Karyakarta. (Annexure P/8).

10.2. That the Hon'ble Court be pleased to direct the respondent authorities to appoint the eligible candidate on the post of Aanganbadi Karyakarta, Village- Murdanda Block-Ussor, District- Bijapur.

10.3. That, any other relief, which this Hon'ble Court deems fit in the present facts and circumstances of the case may kindly be granted."

2. The facts of the case, as projected in the present writ petition, in brief is that petitioner was appointed on the post of Aanganbadi Karyakarta on 01.04.2007. She had already given her services to the Department of Women and Child Development as Aaganbadi Karyakarta Centre Errabore Para Yampur, Integrated Women and Child Development Project Basaguda (Ussor) District- Bijapur for a period of 07 years. In the year 2014-15, advertisement was published for inviting applications for the post of Aanganbadi Karyakarta in Village- Murdanda. The petitioner being the native of Village- Murdanda submitted her application for the post of Aanganbadi Karyakarta along with no objection certificate and experience certificate by the Project Officer. On the same, the petitioner was granted six marks for experience and the petitioner's name was in the second position of the seniority list. The District Women and Child Development Officer, District-Bijapur issued a show cause notice to the petitioner stating that her previous posting to be fraudulent as per the selection Rule 1.5 of Aanganbadi

Karyakarta and directed to the petitioner to submit reply within 07 days. Thereafter, the petitioner submitted her reply, whereby she clearly stated that she had already submitted her native residence as Murdanda in her previous selection process also. In the year 2007, when the petitioner was appointed as Aanganbadi Karyakarta, many other similarly situated Aanganbadi Karyakartas were posted in other villages as Aanganbadi Karyakata. The petitioner also submitted her application before the Collector, Deputy Director, Integrated Women and Child Development Scheme/ Programme and Under Secretary, Department of Women and Child Development. On the said application of the petitioner, the Under Secretary directed the Director vide order dated 25.06.2015 (Annexure P/7) to appoint the eligible candidates as Aanganbadi Karyakartas as per the rules. On the same, the respondent No. 2 vide order dated 01.07.2015 (Annexure P/8) directed respondent No. 3 to conduct an enquiry and submit its report within a week. The petitioner till date has no information regarding the enquiry or report in compliance of order dated 01.07.2015 passed by the Joint Director. Hence, this present petition filed by the petitioner.

3. Learned counsel for the petitioner submits that petitioner is eligible for appointment as Aanganbadi Karyakarta, Murdanda Block- Ussor, District- Bijapur, the petitioner is eligible for six marks of experience as Aanganbadi Karyakarta. The petitioner had previously also submitted her native certificate as resident of village- Murdanda, the petitioner has not committed any fraud on her part and the petitioner is a victim of arbitrary act of respondent No. 4, who has

not complied with the order of respondent No. 2, so, respondent No. 4 may be directed to conduct an enquiry in accordance with the order dated 01.07.2015 (Annexure P/8) passed by respondent No. 2 regarding the experience marks to the petitioner for appointment to the post of Aanganbadi Karyakarta. Therefore, Respondent authorities may be directed to appoint the eligible candidates on the post of Aanganbadi Karyakarta, Village- Murdanda, Block- Ussor, District- Bijapur.

4. On the contrary, learned counsel for respondents No. 1 to 4/ State strongly and vehemently opposes the above prayer made by learned counsel for the petitioner and submits that the petitioner is not entitled for the relief as claimed by her on the following facts and grounds that the recruitment to the post of Aaganbadi Karyakarta was concluded on the basis of guidelines/instructions issued in this regard. The Clause 1.4 of the above guidelines clearly states that such Aaganbadi Karyakarta/ Sahayika who have been dismissed from the services earlier on the ground of irregularities would not be entitled for second recruitment and Clause 1.5 of the Guidelines/Recruitment Rules states that the applicants must be of the resident of the village, Aanganbadi is situated and the posts are advertised for. In the year 2007, a similar post of Aaganbadi Karyakarta was advertised and the candidates were recruited and appointed for the Aaganbadi Centre, Errabore Para Yampur, District- Bijapur. The petitioner had applied for the post of Aaganbadi Karyakarta at the Centre Errabore Para Yampur, which is in violation of Clause 1.5 of the guidelines. Adding further, learned

counsel for the State submits that it is the case of the petitioner as in the petition itself at para 8.4 she mentioned that in the previous recruitment of the year 2007, she got selected on the basis of native resident of Village- Murdanda. A copy of Guidelines/Recruitment Rules vide order dated 02.04.2008 of Aaganbadi Karyakarta is filed as Annexure R-1. The petitioner while working as Aaganbadi Karyakarta in the Centre Errabore Para Yampur, was terminated from service vide order dated 16.07.2015 (Annexure R/2), which is one of the disqualification for the fresh recruitment according to Clause 1.4 of the Guidelines/ Recruitment Rules. Elaborating further, learned counsel for the State submits that while concluding the recruitment process, it was brought to the notice of the authorities that according to Clause 1.4 & 1.5, the petitioner is not entitled for the post of Aaganbadi Karyakarta as she had obtained recruitment on the basis of wrongful information for which she has been terminated from the service, therefore, she is not entitled for the marks on the ground of experience as she got selected on the post of Aaganbadi Karyakarta in the year 2007 in violation of recruitment guidelines. A copy of relevant portion of the note-sheet is filed as Annexure R/3. Recruitment Rules/Guidelines at Clause 11 provides for the appeal before the Collector, which the petitioner did not avail of. Therefore, the petition is liable to be dismissed on the ground of alternative remedy available to her. Respondent No. 4/District Programme Officer had received a direction to conduct an enquiry and submit its report as to why marks for the experience was not awarded to the petitioner vide letter dated 27.01.2015

(Annexure R/4). In compliance of the letter dated 27.01.2015 (Annexure R/4), respondent No. 4 submitted/ forwarded its report vide letter 12.02.2015 stating clearly therein that the petitioner was the resident of Village- Murdanda, whereas she got selected in the Aanganbadi Centre Errabore Para Yampur which is a violation of the guidelines issued in this regard, therefore, she is not entitled for the marks for experience as she got selected in violation of guidelines. As the appointment of the petitioner is void *ab initio*, therefore, she is not entitled to be awarded marks for experience. Hence, the instant petition being devoid of merit and is liable to be dismissed.

5. I have heard learned counsel for the respective parties and perused the material available on record.
6. It is an admitted position that petitioner was appointed on the post of Aanganbadi Karyakarta on 01.04.2007 and she was working under the Department of Women and Child Development as Aanganbadi Karyakarta Centre- Errabore Para Yampur Integrated Women & Child Development Project Basaguda (Ussor) District- Bijapur and it is also not disputed that in the year of 2014-2015 advertisement was published for inviting applications for the post of Aanganbadi Karyakarta in Village- Murdanda. Thereafter, the petitioner had applied for this post and she secured second position in the seniority list. A copy of selection list is Annexure P/3. It is also not disputed that the District Women & Child Development Officer, District- Bijapur issued a show cause notice dated 02.12.2014 (Annexure P/4) to the petitioner stating that the previous posting to be fraud as per the selection Rule 1.5 of Aanganbadi Karyakarta/

Assistant. Thereafter, the petitioner had submitted her reply as Annexure P/5 and enquiry was conducted vide order dated 01.07.2015 as Annexure P/8.

7. Learned counsel for the petitioner submits that petitioner was working for 07 years as Aanganbadi Karyakarta and she is eligible to be awarded six marks of experience as Aanganbadi Karyakarta and she never suppressed her native place and petitioner has also previously submitted her native certificate as resident of village-Murdanda, which clearly states that she has not committed any fraud.
8. It is clear from advertisement (Annexure P/1) that applications were invited for Aanganbadi Karyakartas for different villages/wards. Petitioner has also filed no objection certificate dated 20.08.2014 (Annexure P/2) of competent officer of previous post, where she was working as Aanganbadi Karyakarta.
9. Respondents filed Guidelines/Recruitment Rules for appointment of Aanganbadi Karyakarta vide order dated 02.04.2008 (Annexure R/1). As per para 1.5 of Guidelines/Recruitment Rules, it is reproduced hereinbelow for ready reference as under:-

“1.5 जिस ग्राम में आंगनबाड़ी केन्द्र खोला जाना प्रस्तावित है या जहाँ पद रिक्त है, आवेदिका उसी ग्राम की एवं नगरीय क्षेत्र के लिए उसी वार्ड की स्थानीय निवासी होना चाहिये। आवेदन पत्र के साथ निवास के संबंध में निम्नलिखित में से कोई एक दस्तावेज सलग किया जावेगा:-
 क. उस ग्राम/नगरीय क्षेत्र की अद्यतन मतदाता सूची में नाम दर्ज हो तो आवेदन पत्र में उसके कमांक का उल्लेख कर प्रतिलिपि लगाई जाये।
 अथवा
 ख. संबंधित ग्राम पंचायत के सरपंच तथा सचिव द्वारा संयुक्त हस्ताक्षरित अथवा पटवारी तथा नगरीय निकायों में की जाने वाली नियुक्ति में वार्ड पार्षद अथवा पटवारी द्वारा जारी प्रमाण पत्र जिसमें वार्ड एवं ग्राम में निवासरत रहने का पता सहित स्पष्ट उल्लेख हो।
 टीप: यदि किसी आवेदक के निवास के संबंध में कोई शिकायत प्राप्त होती है तो उस के निवास के सत्यापन हेतु सक्षम अधिकारी द्वारा जारी निवास संबंधी प्रमाण पत्र ही मान्य किया जावेगा ”
10. As per order dated 10.07.2015 (Annexure R-2), service of the petitioner was terminated, while she was working as Aaganbadi

Karyakarta in the Centre Errabore Para Yampur. Respondents filed guidelines/Recruitment Rules vide order dated 02.04.2008 as Annexure R-1 and it is not disputed that petitioner was working in previous post since 19.07.2007 and there was no explanation offered by the respondents as to what was the guidelines on the date of appointment of petitioner on previous post.

11. It is also not disputed that petitioner was working since 19.07.2007 as per Annexure P/2 and Guidelines/Recruitment Rules was issued on 02.04.2008 (Annexure R/1) and the respondents authority alleged that the petitioner obtained previous appointment by playing fraud or suppressing of her native place, but it is clear from no objection certificate dated 20.08.2014 that in this certificate itself petitioner's native place was mentioned as village-Murdanda. In her reply dated 09.12.2014, petitioner stated that at the time of her appointment in the year of 2007, when she was appointed as Aanganbadi Karyakarta, many other similarly situated Aanganbadi Karyakartas were posted in other villages as Aanganbadi Karyakartas, who are also currently working on the said post.
12. It is not clear from order dated 16.07.2015 (Annexure R-2) that on what ground service of the petitioner was terminated from her previous post. It is clear that respondent authorities have not considered this fact that appointment of the petitioner was in the year 2007 and guidelines were issued on 02.04.2008 (Annexure R/1) and she was working in her previous post for seven years.
13. Learned counsel for the respondents/State has also objected that the petitioner did not claim any relief against termination order dated

16.07.2015 (Annexure R/2). So, she is not entitled for any relief, but it is clear that respondents had rejected her candidature on this ground that she obtained appointment by playing fraud.

14. As such, looking to the facts and circumstances of the case, this petition is allowed and termination order dated 16.07.2015 (Annexure R/2) with regard to the petitioner is set aside with all consequential benefits. However, liberty is granted to the respondents to inquire the case of the petitioner on previous guidelines before the Guidelines/Recruitment Rules dated 02.04.2008 (Annexure R-1) or at the time of posting of the petitioner in the year 2007 and if her appointment was found illegal, invalid/irrelevant according to rules and guidelines, after affording reasonable opportunity of hearing/defence to the petitioner, pass an appropriate order in accordance with law and also adhering to the principles of natural justice. If her appointment is found legal, valid/relevant according to rules and guidelines, then the respondent authorities shall reinstate the petitioner in service as per previous appointment order of 2007.
15. As an upshot, the instant petition stands **allowed** to the above extent.

Sd/-

(Rajani Dubey)
JUDGE