
(2010) 03 OHC CK 0050
In the Orissa High Court

Damayanti Sahu		APPELLANT
	Vs	
State of Orissa and Others		RESPONDENT

Date of Decision : 31-03-2010

Acts Referred:

Citation : (2010) 110 CLT 19

Hon'ble Judges : S.K. Mishra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.K. Mishra, J.—The Petitioner assails the Order Dated 09.06.2009 passed in Misc. Appeal No. 3 of 2009 rejecting her appeal to quash appointment of Opp. Party No. 5 as the Anganwadi worker of Nuapada (Chandala Sahi) Anganwadi Centre.

2. The case of the Petitioner is that she was discharging her duties as Anganwadi Organizer from 24.05.1993 to 01.09.1998 & thereafter she has discharged the work of Anganwadi helper from 07.09.1998 till date. The Nuapada Anganwadi Sub-Centre was converted into Anganwadi Centre on 01.09.1998. The Petitioner aspired to be engaged as Anganwadi worker as she has the requisite experience. Her grievance is that the C.D.P.O. Sukruli Block recommended the name of Opp. Party No. 5 in violation of the guidelines prescribed by the Sate Government.

3. The Petitioner had earlier preferred a Writ Petition before this Court bearing W.P.(C) No. 2120 of 2009, which was disposed of on 13.02.2009 directing the Petitioner to file an appeal before the Sub-Collector highlighting her grievances. The Sub-Collector was directed to hear the same & dispose of it on merit.

4. In pursuance of such order of this Court, the Sub-Collector as per the Order Dated 09.06.2009 disposed of the appeal of the Petitioner holding that the objections raised by the Petitioner are not maintainable. Such order has been challenged in this Writ Petition.

5. In course of hearing, the Petitioner filed a rejoinder affidavit, inter alia, stating that the Government as per the letter No. IV-ICDS-8/10-3980/WCD dated 16.02.2010 has prescribed that for selection of Anganwadi Worker, the upper age in case of Balwadi workers can be relaxed to the extent of number of years they have served in Balwadi centres, subject to a maximum of 10 years. Learned Counsel for the Petitioner submits that the Petitioner's case stands in the same footing, therefore, he should also be given relaxation.

6. Opp. Parties 2 & 3 have filed counter affidavit denying the averment, inter alia, pleading that though the Petitioner was working as Anganwadi Organizer/helper for more than five years, but she did not belong to the age group of 18 to 42 years on the cut-off date. The specific case of the Opp. Parties, which is not disputed, is that the Petitioner Damayanti Sahu is 44 years 7 months as on 1st day of January, 2007. 1.1.2007 is the cut off date as the application was invited in the year 2007. The Opp. Party further pleads that there is no provision in the guidelines for relaxation of the age in case of candidate, who is/was working as Anganwadi worker/Helper. The Opp. Party therefore pleads that there is no violation of the provisions of the revised guidelines issued by the State Government Hence, it is prayed that the Writ Petition be dismissed. Opp. Party No. 4 has also filed the counter affidavit, inter alia, supporting the case of the Opp. Parties 2 & 3 Opp. Party No. 5 though appeared, has not filed any counter affidavit.

7. It is undisputed that the Petitioner was working in the Sub-Centre as Anganwadi Organizer & then later on she was working as the Anganwadi helper. The revised guidelines for selection of Anganwadi workers communicated to all Collectors vide letter No. 145/SWCD IV-ICDS-1-1/04 dated 2.5.2007 at para 4 provides as follows:

4) Anganwadi Helper & Organizer if having the requisite qualification & are found to be suitable shall be selected as Anganwadi Worker provided they have worked for more than five years.

Thus, the revised guidelines provide that any such Anganwadi Helper/Organizer shall be selected as Anganwadi worker (i) if they had the requisite qualification & found suitable, (ii) they should have worked at least for five years. At paragraph-2 of the said revised guidelines, it is further stipulated that the applicant should be a female individual in the age group of 18 to 42 years. She should have attained the age of 18 years, but not 43 years on the first day of the year, in which the application has been invited. There is no dispute in this case that the Petitioner has already crossed the age of 43 on the first date of the year of publication of the advertisement. The only question remains to be seen, whether there should be any relaxation in favour of such Anganwadi workers & organizers.

8. Learned Counsel for the Petitioner submitted that since the Government has prescribed relaxation of age for Balwadi workers, similar relaxation should be

given to Anganwadi helpers/organizers. Learned Addl. Standing Counsel, on the other hand, submitted that the case of the Anganwadi helpers/Organizers is not at par with the Balbadi workers as the Balbadi Scheme has been abolished & such relaxation has been given by the Government only for rehabilitation of those workers.

9. Policy decisions are taken by the State Government i.e. the Executive. The Court should always refrain from interfering with such policy decisions, only in case of violation of fundamental rights & manifest discrimination against any Section of the Society, Court should interfere in the matters of the policy of the Government. There is no violation of any fundamental principle in this case. The alleged discrimination also is without substance as the Balbadi Scheme has been closed & the Government thought it proper, in pursuance of an order passed by this Court, for rehabilitation of the retrenched Balbadi workers in giving relaxation of their age. The Petitioner is still continuing as the Anganwadi helper. So she cannot claim the similar treatment as abolished Balwadi workers. There is no sufficient ground to set aside the order passed by the Sub-Collector or to direct the State Government to change the policy.

In the result, the Writ Petition has no force & the same is not admitted. There shall be no order as to costs.