
(2019) 11 CHH CK 0031
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 5355 Of 2008

Devendra Kumari

APPELLANT

Vs

Director. Panchayat Chhattisgarh And Ors

RESPONDENT

Date of Decision : 14-11-2019

Acts Referred:

Citation : (2019) 11 CHH CK 0031

Hon'ble Judges : Prashant Kumar Mishra, J

Bench : Single Bench

Advocate : R.K. Kesharwani, R.S. Baghel, Mahendra Dubey

Final Decision : Dismissed

Judgement

1. The issue brought before this Court pertains to appointment of Aanganbadi worker for Aanganbadi center, Telimuda, Gram Panchayat Kailashpur, Block Sonhat, District Korea. On issuance of advertisement eight persons including the petitioner and respondent No.6 applied for the post and eventually the Gram Panchayat recommended petitioner's name for appointment. This recommendation was challenged by the respondent No.6 by preferring an appeal before the Collector which was dismissed on 19.09.2007 against which the respondent No.6 preferred a revision before the Director Panchayat who has passed the impugned order allowing the revision application to set aside the recommendation in favour of the present petitioner.

2. It is informed that in absence of any interim order in this petition, the respondent No.6 is presently working as Aanganbadi worker.

3. Before the Collector and the Director Panchayat the respondent No.6 argued that the petitioner being relative of an office bearer of the Panchayat and her husband being a Government Servant as Peon, she was not entitled for the appointment. Respondent No.6 also contended that she was entitled for preference in view of the State Government notification dated 10.04.2006 wherein it is provided that for the appointment to the post of Aanganbadi worker

such persons who have experience of working as Sah Sahayeeka shall be accorded preference.

4. The Director Panchayat has referred to the order passed by this Court in WP No.1329 of 2006 (Smt. Nirmala Devi Vs. State of Chhattisgarh & Ors.) to hold that the High Court has directed for according preference to Sah Sahayeeka in the matter of appointment of Aanganbadi worker, therefore, the respondent No.6 deserves preference for her appointment as Aaganbadi worker.

5. It is argued by Shri R.K. Kesharwani, learned counsel for the petitioner that under the circular dated 06.01.2000, a person belonging to Scheduled Tribe category is also entitled for preference, therefore, the petitioner was also entitled for preference and in that view of the matter petitioner's recommendation by the Gram Panchayat should have prevailed.

6. Per contra, Shri Mahendra Dubey, learned counsel for respondent No.6 would submit that the circular dated 10.04.2006 being specific in respect of according preference to Sah Sahayeeka, the order passed by the Director Panchayat does not call for any interference.

7. Since order passed by Division Bench of this Court in WP No.1329 of 2006 has not been placed on record by any of the party, I had summoned the original record of the said petition. On perusal of the record it appears that the State Government has issued a notification on 10.04.2006 directing that if a candidate for appointment as Aanganbadi worker fulfills all other conditions than she shall be accorded preference in the matter of appointment if she has worked as Sah Sahayeeka. The Division Bench has disposed of the Writ Petition in view of the State Government notification.

8. True it is that under the circular dated 06.01.2000, a member belonging to Scheduled Tribe community is also given preference, however, the subsequent notification dated 10.04.2006 being specifically directed for according preference to Sah Sahayeeka, the same would prevail over the general instructions for appointment of Aanganbadi worker. The general circular dated 06.01.2000 would apply as amongst the candidates applying for appointment as Aanganbadi worker but when one of them is otherwise entitled for preference under some other State Government notification, the same would prevail over the general procedure for appointment. The respondent No.6 having already been working as Sah Sahayeeka for last more than two years and having found that she was otherwise entitled for preference under the State Government circular dated 10.04.2006, the Director Panchayat has rightly allowed the revision application.

9. In view of the above discussion, no case for interference with the impugned order is made out.

10. Accordingly, the Writ Petition deserves to be and is hereby dismissed.