
(2011) 04 UK CK 0060

In the Uttarakhand High Court

Case No : Writ Petition No. 355 of 2011 (S/S)

Km. Salma Kaderi

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 29-04-2011

Acts Referred:

Citation : (2011) 04 UK CK 0060

Hon'ble Judges : Sudhanshu Dhulia, J

Bench : Single Bench

Judgement

Sudhanshu Dhulia, J.—Heard Mr. S.S. Yadav, Advocate for the Petitioner and Mr. N.P. Sah, Standing Counsel for the State of Uttarakhand.

2. Under a Scheme started in the erstwhile State of Uttar Pradesh, somewhere in late 80s, which continued in the State of Uttarakhand, "Angan Bari Workers" are appointed in "Angan Bari Centres", which are situated almost in all villages. It is a village level appointment made by the concerned Child Development Project Officer. The selection and appointment procedure of "Angan Bari Karyakatri", "Sahayika Angan Bari Karyakatri" and "Mini Angan Bari Karyakatri" are presently governed by various Government Orders but primarily by Government Orders dated 24th February, 2009, 3rd September, 2009 and 31st May, 2010. The main scheme today, is given in a Government Order issued by the Government of Uttarakhand on 24th February, 2009. These are all admitted facts.

3. As per the said Government Orders reference whereof has already been given above, a selection committee at Block Level is first constituted. A procedure is prescribed for constituting this Selection Committee. Thereafter procedure is also prescribed how the various vacancies of "Angan Bari Workers" will be advertised for all the "Angan Bari Centres" and how the selection will be made by the Selection Committee and what will be the eligibility as well as the priorities given to a candidate in this selection. It will be needless to elaborate on this aspect at the present juncture.

4. As per the procedure prescribed in the Government Order dated 24th February, 2009, the Selection Committee shall publish the "tentative select list" to be notified at various places including the Block Level Offices, so that if anybody wants to object to these selection, he or she would be free to make such objections. The cases where no objections are made, the tentative selection list becomes final and the Child Development Project Officer issues appointment letter to such a candidate. In cases where objections are received the matter is referred to the Appellate Authority, which is constituted under the Government Order dated 24th February, 2009. The body of the Appellate Authority constituted is as follows:

1. Chief Development Officer-Chairman

2. A person nominated by the District Magistrate, who must be at least Class-II Officer, and,

3. District Programme Officer, who will be the member Secretary of this appellate body.

5. The Appellate Authority after considering the objection passes appropriate order therein. The Appellate Authority has to take a decision on this matter within 15 days as per the Government Order dated 24.2.2009.

6. "Angan Bari Worker" has to be a woman. The Petitioner being a woman moved an application for being appointed as an "Angan Bari Worker" for "Angan Bari Centre-Jamaur, Tehsil Khatima, District Udham Singh Nagar. The contention of the Petitioner is that the duly constituted Selection Committee found the Petitioner as well as Respondent No. 6 suitable for appointment as an "Angan Bari Worker" and thereafter published a select list, in which their names figured. Subsequently on complaint made by Respondent No. 6, the Petitioner was not appointed as "Angan Bari Worker" for the above Angan Bari Centre. The Petitioner contends that the selection of the Petitioner has been cancelled without giving her any opportunity of hearing.

7. The relevant Government Order, which provides a mechanism for redressal of such grievance, is Government Order dated 24th February, 2009 (reference of which has already made above. This Court finds that by and large though the procedure prescribed in the Government Order dated 24th February, 2009 as well as subsequent Government Orders, is an elaborate procedure, yet there seems to be a flaw in the procedure inasmuch as in such cases where objections are made on a tentative select list and the matter is referred to the Appellate Authority, there is no provision that the Appellate Authority before reversing the decision of the Selection Committee would also serve a notice to the selected candidate or to give her an opportunity of hearing. This being the case, the Child Development Project Officer, Khatima, District Udham Singh Nagar in the present case rejected the candidature of the Petitioner without giving any opportunity of hearing to her.

8. As such, this Court finds that an interference is needed in the writ petition. The Appellate Authority constituted under the Government Order dated 24th February, 2009 is hereby directed to hear the present Petitioner and all concerned parties including Respondent No. 6. It is expected that the Appellate Authority will act with due fairness and in accordance with the principles of natural justice and fair play.

9. It must be clarified that though an appointment of an "Angan Bari Worker" is only under a Government Scheme yet for those "Angan Bari workers" who are so appointed, it carries a great meaning as the candidates for this work belong to the deprived or rather financially insecure stratum of our society who reside in a village. Even amongst them, in most cases, they are widows, divorced women, etc.

10. Subject to just objections, these women have a legitimate expectation to be appointed as an "Angan Bari Worker" once their names figure in the tentative select list. It is also true that if merely one is selected one does not get any indefeasible right for appointment, yet it is equally true that if the appointment is denied, plausible reasons must exist for such a denial!

11. The Appellate Authority is hence directed to take a decision on this matter by passing a speaking order as expeditiously as possible but in no case beyond a period of eight weeks from the date a certified copy of this order is produced before it, after hearing all the concerned parties.

12. With these observations, the writ petition is disposed of.

13. No order as to costs.