
(2011) 08 PAT CK 0039
In the Patna High Court
Case No : CWJC No. 9510 of 2011

Mala Sharma and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 30-08-2011

Acts Referred:

Citation : (2011) 08 PAT CK 0039

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Judgement

Ajay Kr. Tripathi, J.—Heard Learned Counsel for the Petitioners and Learned Counsel for the State. All these Petitioners have a long period of experience in the role of Anganbari Sevikets. When the State Government decided to create post of Angan Bari Supervisors, advertisement in this regard was issued with certain guidelines thereto. Appointment on the post of Supervisors was to be made from two sources, one from direct appointment if they fulfilled the requisite qualifications etc. in this regard to the extent of 2/3rd of the post and other 1/3rd was to be filled up from the pool of talent of experienced persons coming from Anganbari Sevika. However, the State Government laid down the maximum age in such a situation to be 45 years. Since all these Petitioners are way past 45 years of age, obviously their claim is hit by laying down the maximum age for such selection.

2. Submission of the Learned Counsel for the Petitioners is that there ought not to have been age bar in matters of such selection from the pool of Anganbari Sevika and the experience should be given the primary consideration in such selections. If the age bar or age relaxation is not given, prejudice is to be caused to the Petitioners. Petitioners have pressed into service the so-called request or recommendation made by the Divisional Commissioner, Muzaffarpur in his communication dated 31.12.2010 addressed to the Principal Secretary, Welfare Department, Government of Bihar, Patna.

3. Prima facie, the Court is of the opinion that these are policy matters and fixing

maximum age for such appointment by itself cannot be termed to be arbitrary. Whether some kind of considerate re-look at the age bar is required or not is a matter for the State which is going to be the recruiting authority in matters of such kind.

4. In absence of any clear constitutional provision coupled with any statutory provision by virtue of which waiver in the maximum age of such recruitment can be held to be ultra vires, the Court comes to a considered opinion that these are policy decisions which do not suffer from any irrationality where experience by itself would be good enough for giving a break to the Anganbari Sevika in matters of appointment as Supervisors. It is an issue which can be best decided as a matter of policy by the State.

5. This writ application is disposed of with a direction upon the Principal Secretary, Social Welfare Department (Respondent No. 2) that taking cognizance of the communication contained in Annexure-10 which is the letter of recommendation made by the Divisional Commissioner, he will communicate to one and all the final opinion of the State Government on the issue of fixation of 45 years of age in such matters of appointments. No mandamus is required to be issued in this regard. The Court expects the opinion of the State to be communicated to one and all within a period of three months from the date of production or communication of a copy of this order so that the recruitment process, once initiated, can be expedited. This writ application is disposed of with the direction aforesaid.