

(2011) 08 CAL CK 0108
In the Calcutta High Court
Case No : Writ Petition No. 12204 (W) of 2011

Manashi Ghosh

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 24-08-2011

Acts Referred:

Citation : (2012) 4 CALLT 376

Hon'ble Judges : Debasish Kar Gupta, J

Bench : Single Bench

Advocate : S. Ghosh and Mr. Falguni Majhi, for the Appellant; Prabir Kumar Roy for the State, for the Respondent

Judgement

Debasish Kar Gupta, J.—This writ application is directed against an order dated July 04, 2011 passed by the respondent No. 6 cancelling the selection and engagement of the petitioner to the post of Anganwari worker of Bhatar ICDS Project, District-Burdwan. The facts of this case in a nutshell are as follows:

2. The petitioner participated in a selection process for the post of Anganwari worker under Bhatar ICDS Project, District-Burdwan. She was selected in the above selection process. Subsequently she was appointed on August 18, 2010. A notice dated December 20, 2010 was issued to the petitioner by the respondent No. 6 to show cause as to why, her engagement to the above post should not be cancelled on the ground of suppression of her B.A. qualification. The petitioner submitted her reply to the above notice. Ultimately the selection and engagement of the petitioner to the post in question was cancelled by virtue of the impugned order.

3. Having heard the learned counsel appearing for the respective parties as also upon consideration of the submissions made on their behalf. I find that the contract of the petitioner in suppressing her higher academic qualification was examined on the basis of a Government Order dated January 25, 2006. But the above issue has already been decided by a Special Bench of this Court in the

matter of Rina Dutta and Others Vs. Anjali Mahato and Others, Upon consideration of the above decision 1 find that the Special Bench of this Court took into consideration the aforesaid Government Order dated January 25, and held that the 2006 respondents acted under a Scheme of 1995 of the Central Government. Upon further consideration of the above Scheme it has been held that there was no bar and/or impediment for the over qualified " candidates to participate in the selection process.

4. The relevant portions of the above decision are set out below:--

21. When a particular qualification is laid down in a advertisement relating to a distinct class of candidates, the candidates possessing a qualification higher than that advertised can ordinarily not be debarred or disqualified, but it is open to the employer to make a rule providing for disqualification of candidates possessing qualification higher than the prescribed qualification, but the burden would be on the employer to justify such a rule.

5. In view of the above, the impugned order is quashed and set aside. The respondent authority is directed to reinstate the petitioner to the post of Anganwari worker under Bhatar ICDS Project, District-Burdwan forthwith. This writ application is, thus, disposed of. There will be however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties on priority basis.