

(2007) 03 GAU CK 0035
In the Gauhati High Court

Manju Dutta and Others

APPELLANT

Vs

State of Tripura and Others

RESPONDENT

Date of Decision : 21-03-2007

Acts Referred:

Citation : (2007) 3 GLT 196

Hon'ble Judges : Hrishikesh Roy, J

Bench : Single Bench

Judgement

Hrishikesh Roy, J.—Heard Mr. S. Talapatra, learned sr. counsel for the writ petitioner. Also heard Mr. P.K. Biswas, learned Assistant SG for the respondent-Union of India and Mr. S. Chakraborty, learned Counsel for the State respondents.

2. The petitioners who are Anganwadi workers working in the State of Tripura have filed the present writ petitions challenging the Recruitment Rules notified on 9.4.97 for the post of Supervisor, Integrated Child Development Services (for short, ICDS) under the Education Department, Government of Tripura.

3. Mr. S. Talapatra, learned Counsel for the petitioner submits that ICDS was introduced by the Government of India in the year 1975-76 and under the said Centrally sponsored scheme, integrated development in the area of supplementary nutrition, immunization, health check-up, referral services, non-formal education etc. to pre-school children, pregnant women and lactating mothers were to be extended with the aid of Anganwadi workers (AWs) and their superiors for all women in the age group of 15 to 45 throughout India.

Under this scheme Anganwadi workers are to be the grassroot level workers and the superior posts are designated as Supervisors, Assistant Child Project Officer and Child Development Project Officer.

4. It is submitted that entry to the post of Supervisor is required to be made in terms of the guidelines issued by the Central Government. One such guidelines dated 19.5.89 has been annexed as Annexure-2 to the writ petition. The Central Government by circulating the said guidelines to the Government of Tripura has

directed framing of Recruitment Rules for the post of Supervisors in the ICDS to ensure that Anganwadi workers with Matriculation qualification become eligible for direct recruitment to the post of Supervisors with either 8 years or 10 years of experience as Anganwadi workers, depending on whether or not the Anganwadi worker has 11 month's training as Valsevika. In the said communication dated 19.5.89, it was further stipulated that Anganwadi workers with 10 years of experience should be treated as a preferential qualification for recruitment to the post of Supervisors.

Learned Counsel has also drawn attention of this court to the communication dated 28.4.95 issued by the Joint Secretary to the Government of India, Department of Women and Child Development wherein it is further indicated that it would be mandatory for the State to amend the Recruitment Rules for Supervisors to ensure that 25% of the posts of Supervisors shall be recruited from amongst the Anganwadi Workers (Matriculate) with minimum 10 years of experience.

5. It is contended by Shri Talapatra that the Recruitment Rules notified by the Government of Tripura on 9.4.97 (Annexure-5) does not conform to the guidelines specified by the Central Government through communications dated 19.5.89 and 28.4.95 for making recruitment to the post of Supervisors. Accordingly, it is submitted that the said Recruitment Rules notified on 9.4.97 cannot be made the basis for recruitment to the post of Supervisor as such manner of recruitment would deprive the rights of the petitioners to be considered for appointment to the post of Supervisor in terms of the guidelines of the Central Government.

6. Mr. S. Chakraborty, learned Counsel for the State respondents submits that the Government of Tripura, during the pendency of the writ petitions, has notified fresh Recruitment Rules on 14.2.07, a copy of which has been produced before the court. It is submitted that under newly notified Rules, the guidelines of the Central Government have been fully complied with and provisions have been made for giving appointment or promotion and preference to the Anganwadi workers serving in the State of Tripura. Mr. S. Talapatra, learned Sr. counsel for the petitioner admits that new Recruitment Rules does take care of the anomalies alleged in the present writ petitions and the new Rules also conform to the guidelines of the Central Government.

7. Mr. R.K. Biswas, learned Assistant SG appearing for the Central Government supports the contention made on behalf of the writ petitioners and submits that Recruitment Rules for the post of Supervisors under ICDS scheme have to conform to the guidelines given by the Central Government and the guidelines notified on 9.4.97 being contrary to the Central Government guidelines, are liable to be struck off by this Court.

8. It is seen from the averments made in paragraph 16 of the counter affidavit filed on behalf of the Government of Tripura that Government of Tripura has

admitted that the State Government is under obligation to follow the guidelines and decisions of the Central Government in respect of ICDS project.

9. Thus, there does not appear to be any controversy as to the requirement of following the guidelines given by the Central Government in respect of implementation of ICDS projects as well as for making appointments to the post of Supervisors operating the ICDS schemes. Mr. S. Chakraborty, learned Counsel for the respondents has, however, drawn attention to Annexure-R/2 in the counter affidavit filed by the State in W.P. (C) No. 343 of 1999 requesting the Central Government not to insist on reservation of 25% of the posts of Supervisors for Anganwadi workers.

Be that as it may, the Government of Tripura has now come forward with the new Recruitment Rules for the post of Supervisors notified on 14.2.07 and the recruitments to the post of supervisors are to be governed under the newly notified Rules.

10. There is no dispute at the bar that new Rules notified on 14.2.07 take care of the grievances raised in these two writ petitions and if promotions are made on the basis of newly notified Rules, the guidelines of the Government of India would also be substantially complied with. The only grievance made is with regard to not having such Recruitment Rule in force in the State of Tripura in conformity with the guidelines of the Central Government prior to 14.2.07.

11. The cases of eligible Anganwadi workers have not been considered for appointment to the post of Supervisor since last 10 years as there was an Interim Order dated 1.7.97 passed in C.M. Application No. 296 of 97 in Civil Rule No. 329 of 1997 restraining the Government from filling up the vacant posts of Supervisors on the basis of the impugned Rules of 1997.

Now that the new Rules have been notified by the Government of Tripura, the consideration of eligible candidates for appointment/promotion to the post of Supervisors under the newly notified Rules cannot brook any further delay.

12. In view of the above position, these two writ petitions are disposed of with a direction to the Government of Tripura to immediately take up the case for consideration of eligible Anganwadi workers for promotion/appointment to the post of Supervisors in terms of the new Recruitment Rules notified on 14.2.07. As the Recruitment process was stalled for the last over 10 years, the respondent-authorities are directed to take up the case of all the eligible candidates including petitioners for consideration as indicated above preferably within a period of four months from the date of receipt of a copy of the order of this Court.

13. Writ petitions disposed of accordingly. No cost.