
(2018) 05 CAL CK 0179
In the Calcutta High Court
Case No : Writ Petition29634(W) of 2015

Mukul Maji

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 14-05-2018

Acts Referred:

Citation : (2018) 05 CAL CK 0179

Hon'ble Judges : SUBRATA TALUKDAR, J

Bench : Single Bench

Advocate : Dilip Kumar Chatterjee, Monojit Pal, Ashirbad Sarkar, Joytosh Mazumdar, Pinaki Dhole, Avishek Prasad, S.P. Lahiri

Final Decision : Dismissed

Judgement

The matter has been extensively argued at the motion stage on the basis of facts and the law, presented by learned Counsel for both sides. The short issue in this writ petition relates to the challenge to the cancellation of appointment of the writ petitioner to the post of Anganwadi Worker (for short AWW). The order of cancellation is dated 30th July, 2010.

Mr. Chatterjee, learned Advocate for the petitioner, argues that the petitioner is both a Madhyamik and Graduate qualified candidate for the post of

AWW in issue under the ICDS Project, District " Bankura. The petitioner applied for and obtained her appointment in the year May, 2010 and,

thereafter in July, 2010 such appointment was cancelled by the Child Development Project Officer (for short CDPO), Gangajalghati ICDS Project,

Bankura/the respondent No. 4 to this writ petition.

Relying on the authority of In Re: Smt. Shyamali Bankura (Makar) vs. The State of West Bengal & Ors. in F.M.A. 3462 of 2013 with CAN 7138 of

2015 decided on 6th August, 2015, learned Advocate for the petitioner contends that the Honâ??ble Division Bench was pleased to hold that the

cancellation of appointment of the petitioner as AWW on the ground of possessing a higher qualification and, non-disclosure of such higher

qualification, does not permit the State authority to terminate such appointment.

It is argued that the Honâ??ble Division Bench In Re: Smt. Shyamali Bankura (Makar) considered the judgment of the Honâ??ble Special Bench In

Re: Rina Dutta and others versus Anjali Mahato and others as reported in (2010)3 CLT 232 for arriving at its above noted conclusion. Arguing on

behalf of the State-respondents/the CDPO, Mr. Mazumdar, learned Government Pleader (GP), relies upon several authorities inclusive of the decision

of the Honâ??ble Division Bench in MAT 932 of 2014, In Re: Shampa Dey vs. State of West Bengal & Ors. as decided on 1st September, 2014.

Learned GP submits that the Honâ??ble Division Bench In Re: Shampa Dey (supra) correctly interpreted the ratio of the judgment of the

Honâ??ble Special Bench In Re: Rina Dutta (supra). It is submitted that the law as laid down In Re: Shampa Dey (supra) has been followed by

another Honâ??ble Division Bench in F.M.A. 1464 of 2015, In Re: The State of West Bengal and others versus Chaitali Das as well as the

Honâ??ble Single Benches of this Court, in support thereof two authorities are produced, In Re: Serina Khatun vs. The State of West Bengal & Ors.

[W.P. 30141(W) of 2016] as decided on 2nd August, 2011 and In Re: Dipika Bairagi vs. The State of West Bengal & Ors. [W.P. 30186(W) of 2015]

as decided on 23rd August, 2016. From a conjoint consideration of the above authorities, learned GP submits that the following principles can be

deduced:-

a)That the recruitment for the post of AWW specifically mentions the maximum eligibility qualification to be Madhyamik;

b)Vide Clause 7(b)(ii) of the ICDS Recruitment Rules, 2006 (for short the RR of 2006) (25th January, 2006) it is unambiguously stated that candidates

who are graduates will not be eligible to apply. It is also stated that suppression of higher/graduate qualification by a candidate will permit the authority

to terminate the service forthwith without assigning any reason;

c)The ICDS RR of 2006 (supra) have been followed since 1985 and, have been only subsequently amended in 2013, that is post the order of

termination of the petitioner in July, 2010 to permit candidates with the higher qualification of graduate to apply to the post of AWW;

d) That the Honâ??ble Division Bench In Re: Shyamali Bankura (Makar) (supra) did not correctly interpret the entirety of the law as laid down In

Re: Rina Dutta (supra) by the Honâ??ble Special Bench. The Honâ??ble Special Bench noticed purely on the terms of the advertisement applicable

In Re: Rina Dutta to arrive at the view that the such terms did not debar or disqualify a candidate employing a higher qualification from applying and, it

is for the employer to justify such a rule;

e) In the teeth of the recruitment threshold for AWWs in RR 2006 vide Clause 7(b) (ii) (supra), there being a specific mention of graduates being

ineligible to apply and in the event of suppression being noticed, the candidature is liable to be cancelled;

f) That the principles laid down In Re: A.P. Public Service Commission vs. Koneti Venkateswarulu & Others, reported in (2005) 7 SCC 177 supporting

the cancellation of appointment on the ground of suppressio veri suggestio falsi applies in full force to the facts of the present case. Mr. Mazumder

drives the proverbial last nail into the petitionerâ??s coffin by producing a copy of the application form filed by the petitioner while applying to the

post of AWW in issue wherein she had clearly mentioned her educational qualification as Madhyamik suppressing her graduate qualification.

Having heard the parties and considering the facts and law on the point, particularly the failure of the petitioner to discharge the onus of explaining the

suppression by her in the application form (supra), as discussed above, this Court is clear that the petitioner deserves no relief. W.P. 29634(W) of

2015 stands thus dismissed without inviting Affidavits. Since affidavits are not invited, allegations made shall be deemed to be denied. Urgent certified

photocopy of this order, if applied for, will be made available to the parties subject to compliance with all requisite formalities.