

(2011) 11 SHI CK 0312
In the High Court Of Himachal Pradesh
Case No : CWP No. 4688 of 2011-E

Santosh Kumari

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 30-11-2011

Acts Referred:

Citation : (2011) 11 SHI CK 0312

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Judgement

Sanjay Karol, J.—Petitioner has prayed mainly for the following reliefs:-

i) That the impugned letter dated 26.2.2011 issued by the respondent no.2 whereby respondent No. 3 was directed to conduct fresh interviews to the post of Anganwari Helper may very kindly be quashed and set aside and the respondents may further be directed to consider the petitioner for appointment on the basis of the selection test and order passed by the Ld. Divisional Commissioner in case No. 33/2007, by giving the benefit of her age to the petitioner, their being same merit of the petitioner and the other candidate.

2. For the post of Anganwari Helper, Anganwari Centre Kardho-II, Distt. Hamirpur, applications were invited. Smt. Santosh Kumari, petitioner and Smt. Manorma Devi applied for the same. Both were interviewed, result was declared and Smt. Manorma Devi was eventually given appointment in terms of order dated 2.8.2007 (Annexure P-7), which was assailed by Smt. Santosh Kumari, inter alia on the ground that Smt. Manorma Devi had submitted a false certificate with regard to her annual income and Selection Committee had ignored certificate of Scheduled Caste category, submitted by Smt. Santosh Kumari.

3. In the reply, respondents have now admitted that appointment of Smt. Manorma Devi as an Anganwari Helper, Anganwari Centre Kardho-II, was found to be illegal and, as such, her services stand terminated vide letter dated 30.4.2011 (Annexure P-12). As a consequence of such termination, respondents

have now directed that the post in question be filled-up by inviting applications afresh. Significantly in the very same affidavit, respondents admit that 2 marks were wrongly not awarded to the petitioner as the Child Development Project Officer had inadvertently not taken into account certificate submitted by the petitioner. However, after carrying out necessary corrections, it was found that both Smt. Santosh Kumari and Smt. Manorma Devi had secured equal marks and there was a tie between the two. However, since there was no provision to deal with such like situations, now it stands decided that the post be filled-up by inviting applications afresh.

4. It is not in dispute that petitioner is otherwise eligible for appointment to the post in question. It is also not in dispute that she had participated in the selection process and secured marks equal to that of Smt. Manorma Devi, whose appointment now stands terminated for justifiable reasons, which has not been assailed by her so far. Thus there is a vacancy. Apparently, Smt. Santosh Kumari is older in age. In the given facts and circumstances, her case ought to have been considered for appointment to the post in question. In the event of tie, age ought to have been given preference. If the post is otherwise allowed to be re-advertised, petitioner, would become ineligible for being considered on account of eligibility of age. Her non-appointment is not on account of her fault. As such, impugned letter dated 26.2.2011 (Annexure P-11) is quashed to the extent that post be filled-up by adopting a fresh selection process. There shall be a direction to respondent No. 2 to consider petitioner's case for appointment as an Anganwari Helper in Anganwari Centre Kardho-II in place of Smt. Manorma Devi, if otherwise she is found to be eligible. Necessary action shall positively be taken within a period of two months from the date of receipt of certified copy of this judgment.

5. With the aforesaid observations, present petition stands disposed of, so also the pending application(s), if any.