
(2010) 06 OHC CK 0024

In the Orissa High Court

Case No : Writ Petition (Civil) No. 16666 of 2008

Smt. Tanuja Swain

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 24-06-2010

Acts Referred:

Citation : (2010) 110 CLT 586 : (2010) 2 OLR 731

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Judgement

A.S. Naidu, J.—The controversy with regard to engagement of Anganwadi Worker in respect of Talua-II Anganwadi Centre under Barachana Block in the district of Jajpur, is the subject matter of this writ petition.

2. The scenario of facts reveals that in the year 2001 the authorities took a decision to open Anganwadi Centre at Talua and advertisements were issued. Subsequently, on being satisfied that one Anganwadi Centre is not able to cater the basic necessities of all the inhabitants of the locality, the Government took a decision to open another Anganwadi Centre and issued a notification inviting applications for engagement of Anganwadi Worker so far as Talua-II Anganwadi Centre. The Petitioner in response to an advertisement issued by the Child Development Project Officer, Barachana applied for being engaged as Anganwadi Worker at Talua-II Anganwadi Centre along with many others. After receipt of all the applications, recruitment process commenced and after verification of the marks secured and other factors, the Committee selected opposite party No. 5 for engagement as Anganwadi Worker in respect of the said Centre. The Petitioner being aggrieved by such selection, approached this Court in W.P.(C) No. 15275 of 2007. In course of hearing, the Petitioner prayed that he may be permitted to withdraw the writ petition granting liberty to her to approach the Collector. Consequently, the writ petition was disposed of granting liberty to the Petitioner to approach the Collector by filing a detailed representation/appeal. The Petitioner thereafter approached the Collector. After receiving the said

representation, the Collector issued notice to opposite party No. 5 and others, called for the records and granted opportunity of hearing to all the parties. On scrutiny, the Collector found that the Selection Committee after examining the academic career, residential certificate and other materials found that the Petitioner was more meritorious than opposite party No. 5 and disposed of the representation/appeal and directed to engage the Petitioner. Consequently, the Petitioner was engaged and joined as Anganwadi Worker. The said decision was assailed by opposite party No. 5 before the Collector and a prayer was made to recall the order mainly on two grounds; i.e., the Petitioner has suppressed vital materials and she not only practiced fraud but also made mis-representation of facts. After hearing the parties and going through the documents, the Collector came to the conclusion that the real dispute is with regard to the permanent residency of the Petitioner vis-a-vis opposite party No. 5. Both of them claimed to be residents of village Talua, but then according to opposite party No. 5 the Petitioner was not a resident of village Talua-II and is therefore was not eligible for the said post. Relying upon the notification issued by the Government in Women and Child Development Department, the Collector observed that as per the guidelines, applications for selection of volunteers to work as Anganwadi Worker should be invited in each village/Anganwadi centre area from women residing in the said village/Anganwadi Centre area. In the case in hand, applications were invited for Talua-II Anganwadi Centre. From the Record of Rights, the Collector was satisfied that there was no revenue village named as Talua. On the analysis of the facts, the Collector further found that Talua-I comprises of Ward Nos. 12 and 13, which were under the Revenue village Baniary whereas the area of operation of Talua-II Anganwadi Centre was limited to Ward Nos. 5 and 6, which is under revenue village Saudia. After verifying the voter's list of 2006, the Collector observed that the Petitioner belongs to Talua-I, which is under revenue village Baniary and Talua-II Anganwadi Centre comprises of Ward Nos. 5 and 6, which comes under revenue village Saudia and as the Petitioner does not belong to the area of operation of Talua-II Anganwadi Centre, she was not eligible for engagement in the said Centre.

3. The said order dated 6.11.2008 (Annexure-8) is assailed in this writ petition mainly on the ground that the academic career of the Petitioner is much better than opposite party No. 5. That apart, the Petitioner is a permanent resident of village Talua, which is under Saudia Gram Panchayat. As such, she cannot be excluded from the zone of consideration. Relying upon the decision of this Court in the case of Chandramani Jena and Ors. v. State of Orissa and Ors. 2007 (II) OLR 572, learned Counsel for the Petitioner submitted that if a candidate satisfies all the criterias and also educational qualification, she cannot be ignored only because of her residency. In other words, according to learned Counsel for the Petitioner, if a candidate is found otherwise suitable, her just claim cannot be throttled only because she is not a permanent resident of the village where the Anganwadi Centre is situated and is the resident of the neighbouring village.

4. Heard learned Counsel for the parties at length. We have also perused all the

materials. There is no dispute that academically the Petitioner is more meritorious than opposite party No. 5. The only ground on which opposite party No. 5 has been selected is that the Petitioner is not a permanent resident of the area, which has to be catered by Talua-II Anganwadi Centre. But then, fact remains, the Petitioner is a resident of the same Gram Panchayat though she resides in a different ward. The objective of fixing the criteria for a volunteer seeking engagement as Anganwadi Worker is that she should be available in the village as and when required and serve the common populous in a better way. The distance between the two wards in the Gram Panchayat being meagre, the same geographically does not stand as a barrier. Fact remains, the Petitioner is also a resident of the same Gram Panchayat out of which the area of operation of Talua-II Anganwadi Centre has been carved out. That apart, in consonance with the decision of this Court in the case of Chandramani Jena (*supra*) only because a person is not resident of the place where the Centre is situated, he/she cannot be deprived of engagement.

5. In view of the aforesaid facts and circumstances, this Court disposes of the writ petition with an observation that if the term of engagement of Anganwadi Worker of Talua-II Centre is still subsisting the Collector shall re-hear and dispose of the matter of de novo in the light of the observations made above. On the other hand, if the term of engagement has come to an end, it will be open for the authorities to issue another advertisement and invite applications in accordance with Rules and take a decision to fill up the post de-novo. The exercise shall be completed within six months from the date of communication of this order.