
(2009) 09 OHC CK 0026

In the Orissa High Court

Srimati Chhabilata Dei

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 03-09-2009

Acts Referred:

Citation : (2009) 108 CLT 889 : (2009) 2 OLR 1036 Supp

Hon'ble Judges : I.M. Quddusi, Acting C.J.; Sanju Panda, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Sanju Panda, J.—Challenge has been made in this writ appeal to the Order Dated 4.3.2009 passed by the Hon"ble Single Judge in W.P.(C) No. 9008 of 2006 on the ground that the Hon"ble Single Judge did not consider that the Selection Committee, without having jurisdiction to do so, enhanced the marks from "3" to "5" so far as past experience is concerned.

2. The facts, as narrated in the appeal memorandum, are as follows:

Both the Appellant & Respondent No. 4 along with some other candidates made applications to be appointed as Anganwadi Workers in the Godi Anganwadi Centre. The Appellant contended that she secured 59.35% marks whereas the present Respondent No. 4 secured 60.75%) marks. The mark was allotted to Respondent No. 4 by taking into account her past service experience certificate in a voluntary organization. In support of her experience, she was allotted "5" marks. Had such "5" marks not been awarded to Respondent No. 4, the Appellant would have been selected as she secured 59.35% marks. The further case of the Appellant was that the authorities did not consider the past experience service certificate with regard to her service in a voluntary organization & no mark was awarded to her even though she possessed the said experience. Hence, challenging the selection of Respondent No. 4 Appellant filed W.R(C) No. 2537 of 2006 which was disposed of on 6.3.2006. In the said Writ Petition, direction was given to the Collector to look into the grievance of the

Appellant as per the representation dated 4.2.2006. The Collector was also directed to take a decision whether the selection of Respondent No 4 was legal or not after giving an opportunity of hearing to the parties within a period of three months from the date of communication of the order. In pursuance of the said order, the Collector issued notice to the parties. Both the parties appeared before him on 11.5.2006. As the Collector did not take any decision within the stipulated time, the Appellant filed W.P.(C) No. 9008 of 2006. During the pendency of the said Writ Petition, the Collector disposed of the representation of the Appellant. In the Writ Petition, the Appellant challenged the selection of Respondent No. 4 on the ground that though she produced experience certificate, the same was not taken into consideration. If "5" extra marks were awarded to her for past experience she should have been duly selected as Anganwadi worker instead of Respondent No. 4. Respondent No. 4 filed her counter affidavit in the Writ Petition annexing the copy of the order of the Collector who initially found that the Appellant had not given an undertaking to produce experience certificate in her application, rather in the column meant for the past experience the Appellant had put a cross mark.

3. Learned Counsel appearing for the Appellant submitted that as per the guidelines for selection of Anganwadi workers, the Selection Committee had no authority to enhance the marks in the interview. But the C.D.P.O awarded marks taking into consideration the qualification of the applicants, i.e., marks secured in HSC examination, past experience, etc. At the time of interview, the Selection Committee should not have enhanced the said pre-awarded marks to any of the candidates. In support of his contention, he cited the decision of the Supreme Court in the case of Dipitimayee Parida Vs. State of Orissa and Others, wherein the Apex Court has held that as per the guidelines "3" marks shall be provided if the candidate is a married woman. In that case, on the date of filing of the application, the applicant was not married. Her plea that criterion of one's marital status was not relevant was not tenable. Criteria in rule should be strictly followed by the Selection Committee & it has no power to grant relaxation. While considering the guidelines for selection of the Anganwadi worker, the Apex Court further held that the criteria fixed by the State for the purpose of selection of Anganwadi worker should be strictly followed. The Selection Committee was not conferred with any power for grant of relaxation. Stages for grant of marks having been fixed, one committee could not usurp the jurisdiction of the others. Therefore, the said decision of the Apex Court rather helps Respondent No. 4 who has the past experience & maximum marks can be awarded "5". She has the past experience since 1998 till filing of the application i.e. about 8 years whereas the Appellant put a cross mark in the column of past experience. She had also not filed any undertaking that she would produce the experience certificate at the time of the interview. Therefore, the authority rightly did not award any mark to her. Rather, it awarded maximum "5" marks to Respondent No. 4 for her past experience.

4. Learned Counsel for Respondent No. 4 submitted that as per the guidelines for

selection of Anganwadi worker, Respondent No. 4 received maximum marks in respect of past experience as she possessed more than 8 years past experience. The Hon'ble Single Judge considered all aspects of the selection. Therefore, interference of the said order is unwarranted & the writ appeal is liable to be dismissed. He has also filed a Government instructions issued by the Government of Orissa. Women & Child Development Department & further clarified that the erstwhile Anganwadi Helper of the Sub-Centre may be engaged as Anganwadi Worker if she has passed H.S.C. examination or may be re-engaged as Anganwadi Helper if her qualification is less than Class-X.

5. We perused the relevant records produced by the Learned Government Advocate. It appears that as per Clause 8(e) of the guidelines, for selection of Anganwadi workers the mark to be allotted to a candidate for past experience is out of "5". The experience relevant for this purpose will be experience in any area of the duties of Anganwadi workers acquired in the Government employment or employment in a programme under a registered voluntary organization founded by the State/Central Government for this purpose. Since the Appellant neither produced any experience certificate nor gave any undertaking, rightly no mark was awarded to her in respect of the past experience. As the Respondent No. 4 had maximum experience i.e. more than eight years. "5" marks were awarded to her.

6. It appears that the Hon'ble Single Judge called for the records & also called the C.D.P.O to appear before this Court. However, one Shri Ranjan Kumar Das appeared before this Court who was functioning as C.D.P.O during the relevant time. He filed an affidavit before this Court stating therein that the marks awarded to the Appellant & Respondent No. 4 were scrutinized. The committee consisting of C.D.P.O., Begunia, Vice-Chairman, Begunia, S.E O., Begunia & D.S.W.O., Khurda decided to award "5" marks to Respondent No. 4 for her past experience instead of "3" marks awarded by the C.D.P.O. Accordingly, the committee passed a resolution to that effect. In pursuance of such collective decision, the marks were awarded to Respondent No. 4. After interview, she was selected as per the select list & the same was duly approved on 8.2.2006. The Hon'ble Single Judge, after analyzing the facts & circumstances of the case & the guidelines meant for selection of Anganwadi Worker, while dismissing the Writ Petition recorded the finding that the Appellant put a cross mark in the column meant for mentioning the past experience in any Government or non-Government Voluntary Organization. The qualification of both the Appellant as well as Respondent No. 4 is Matriculate. The percentage of marks secured in the said examination was correctly mentioned. Respondent No. 4 had made in her form regarding her past experience & produced the documents in support thereof. As per the guidelines for selection of Anganwadi Worker maximum "5" marks was meant for experience. The overwriting made in the select list as well as qualifying marks did not show any incorrect calculation. It is, therefore, presumed that initially there being error in calculation, the same was rectified by correcting the same. The experience relevant for the purpose was experience in

any area of the duties of Anyanwadi worker acquired in "government employment or in a programme under a registered voluntary organization funded by the State/Central Government for the purpose. It was, therefore, clear that the maximum marks that could be awarded for experience was "5". Respondent No. 4 having past experience in the Private NGO as well as in the Government Organization from 1998 to 2001 respectively was awarded full "5" marks & there was no mistake on the part of the authorities in selecting Respondent No. 4 as Anganwadi worker at Godi Anganwadi Centre. The Collector by his Order Dated 9.6.2006 considered the representation made by the Appellant & as she had neither produced any experience certificate along with her application nor given any undertaking to produce the same at the time of interview, she was not awarded any mark for her past experience & her representation was dismissed.

7. Since there is no error apparent on the face of the impugned Order Dated 4.3.2009 passed by the Hon"ble Single Judge in W.P.(C) No. 9008 of 2006, we are not inclined to interfere with the same.

Accordingly, the writ appeal is dismissed. No costs.

I.M. Quddusi, A.C.J.

I agree.