
(2020) 01 CHH CK 0050
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 265 Of 2009

Sushila Dewangan

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 02-01-2020

Acts Referred:

Citation : (2020) 01 CHH CK 0050

Hon'ble Judges : Prashant Kumar Mishra, J

Bench : Single Bench

Advocate : Sharmila Singhai, R.S. Baghel

Final Decision : Allowed

Judgement

1. Petitioner and respondent No.6 (since deceased) were candidates for appointment to the post of Anganbadi worker of ward No.10 Nagar Panchayat, Pandariya. Both of them were duly qualified and eligible for such appointment, however on 14.11.2006, the respondent No.6 was appointed for the reason that she was the original resident of concerned ward.
2. Petitioner challenged the appointment of respondent No.6 by preferring an appeal before the Collector which was allowed on 22.05.2007 vide Annexure-P-2. Thereafter, the petitioner was appointed to the post of Anganbadi worker vide Annexure-P-8 dated 21.06.2007.
3. Challenging the order of Collector, the respondent No.6 preferred an appeal before the Director, Urban Administration & Development, C.G. who has allowed the appeal by the impugned order to maintain her appointment and at the same time canceling the appointment of the petitioner.
4. While the petitioner claimed preference on the ground that she being a widow is entitled for appointment in view of clause 1.10 of the circular dated 02.04.2008 (Annexure-P-5), the respondent No.6 came with a plea that first of all the candidate has to be the original resident of the concerned ward and once

this condition is satisfied the preference would be considered amongst all eligible candidates. In other words, the respondent No.6 argued that when the petitioner was not at all eligible for consideration as she was not the original resident of ward No.10 she was not entitled for preference.

5. The Director, Urban Administration & Development has found that the respondent No.6 was a resident of ward No.10 since her birth whereas the petitioner originally belongs to a different village but started residing at the concerned ward after she got married to Poshan Lal Dewangan, thus according to the Director, the respondent No.6 was living in ward No.10 for much prior date, therefore, her candidature was better suitable than the candidature of the petitioner and her appointment was proper at the beginning.

6. Having seen the circular Annexure-P-5, it appears, the reasoning on which the Director has proceeded to evaluate the candidature of the petitioner and respondent No.6, is not proper. Paragraph 1.5 of the circular speaks about "ordinary resident" (Sthayi Niwasi) and not of "original resident". The Director has wrongly used the term 'original resident' (Mul Niwasi) to consider the candidature of respondent No.6 as more suitable and better. There is no requirement of candidate being the "original resident" of the concerned ward. The requirement is that of an "ordinary resident". This requirement has been fulfilled by the petitioner as she was an ordinary resident of the concerned ward as is apparent from the supplementary voter list of the year 2004 available at page 25 of the paper book. She has also filed the certificate issued by the concerned Nagar Panchayat and her family Ration Card as well, wherein her place of residence is mentioned at ward No.10. Once the petitioner is the ordinary resident of ward No.10 she was at par with the respondent No.6 in terms of eligibility and thereafter she was entitled for preference for the considered reason that she being a widow is entitled to such preference in terms of paragraph 1.10 of the circular.

7. It is also to be seen that by virtue of the interim order passed by this Court on 19.01.2009, the petitioner is continuously working on the post of Anganbadi Worker, Nagar Panchayat, Pandariya and in the meanwhile, the respondent No.6 has died and her name has been deleted from the array of cause title.

8. For all the above stated reasons, the petition deserves to be and is allowed.

9. The impugned order dated 19.12.2008 Annexure-P-1 passed by the Director, Urban Administration & Development, C.G. is set-aside and that of the Additional Collector, Kabirdham, C.G. dated 22.05.2007 vide Annexure-P-2 directing petitioner's appointment on the post of Anganbadi worker is affirmed.