



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No.1275of 2024

Decided on: 27th February, 2024

Usha RaniPetitioner

Versus

State of H.P. & Ors.

.....Respondents

Coram

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹ *Whether approved for reporting?* Yes

For the petitioner: Mr. Digvijay Singh, Advocate.

For the respondents: Mr. Rajan Kahol, Additional Advocate General for respondents No. 1 to 4.

Mr. Naveen K. Bhardwaj, Advocate, for respondent No.5.

Ranjan Sharma, Judge (Oral)

Notice. Mr. Rajan Kahol, learned Additional Advocate General and Mr. Naveen K. Bhardwaj, Advocate, appear and waive service of notice on behalf of respondents No. 1 to 4 and respondent No.5 respectively.

2. With the consent of the parties, the instant writ petition is taken up for disposal, at this stage, in view of the order(s) intended to be passed herein.

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

3. The petitioner, has filed the instant writ petition, with the following prayer(s):-

“That the impugned orders dated 04.11.2023 passed by the respondent no.3 in appeal no. 03/2022 (118/Nagrota/39/2010) (Annexure P-6) and order dated 29.12.2023 passed by respondent no.2 in Case No. 83/2023 (Annexure P-7) may be quashed and set aside in the interest of justice.”

4. The petitioner has assailed the impugned orders on the ground that, the services of the petitioner as Anganwari Worker, in Anganwari Centre Talai, Tehsil Baroh, District Kangra, (H.P.) since 2.8.2017 have been dispensed with after the passing of the orders by competent authorities, including the orders dated 29.12.2023, (Annexure P-7) passed by the Divisional Commissioner, Kangra in response to which private respondent No.5 (Sudesh Kumari), has been appointed, joined and is continuing, in place of the petitioner.

5. The grievance of the petitioner is that as per Clause 4(f) of the Notification dated 11.4.2007, *Annexure P-1*, containing the guidelines for appointment of

Anganwari Workers/Helpers under ICDS Programme in the respondent-State; the income of a female candidate [not to exceed Rs.8,000/- per annum] has to be taken for computing eligibility and not the income of the female candidate and her family.

6. In order to examine the issue, it would be necessary to have a recap of the provisions of Clause 4(f) and Clause 4(e) of the Scheme-Policy dated 11.4.2007, (Annexure P-1), as under:-

Clause 4(e):- Those belonging to a family which was legally separated as a separate family as per procedure laid down in the Panchayati Raj Act and Rules before 1st January, 2004.

Clause 4(f) Those whose annual income does not exceed Rs.8000 per annum to be certified/countersigned by an officer not below the rank of Tehsildar.

7. Heard Mr. Digvijay Singh, learned counsel for the petitioner, Mr. Rajan Kahol, learned State Counsel and Mr. Naveen K. Bhardwaj, Advocate, for respondent No.5.

8. On hearing the parties, this Court, is of the view, that the contention of Mr. Digvijay Singh, learned

counsel for the petitioner that as per Clause 4(f) of the Scheme, only the income of the female candidate, who seeks employment, is to be considered for reckoning eligibility is without any merit, for the reason that Clause 4(f) has to be read in conjunction with Clause 4(e) of the Scheme, by computing the income of a female candidate by including all family members, who acquire the status of “separate family prior to 1.1.2004” under the Himachal Pradesh Panchayati Raj Act Rules issued thereunder.

9. Notably, both the Clauses i.e. Clause 4(e) and Clause 4(f) are to be construed harmoniously, so as to achieve the object of the Scheme, by conferring eligibility on a female candidate who belongs to a separate family, whose annual income, is below Rs.8000 per annum. Any other interpretation, as contented by Mr. Digvijay Singh, will tantamount to extending benefit to a female who may be unemployed or who may have no independent income of her own, but her husband or/and other family members are sufficiently well off, having annual income exceeding

Rs.8000 per annum, or more and the contention, shall defeat the object of the Scheme, which confers eligibility and opportunity of employment to a female candidate, who belongs to down trodden family/marganised section of the village as per Clause 1 of the Scheme i.e. whose own income and income of her family as a separate unit, is below the prescribed limit.

10. Mr. Digvijay Singh, learned counsel, fairly admits that, in the instant case, the income of family [consisting of petitioner's husband and petitioner is reckoned] exceeded the prescribed limit of Rs.8,000/- per annum, [which was Rs.9400/- per annum at the time of applying for the post, which was revised to Rs.18,533/- subsequently). On this ground also, the petitioner, being ineligible under Clause 4(f) has no case and impugned order is valid, legal and does not suffer from any infirmity; and the same is accordingly upheld.

In the background of the aforesaid discussion, the impugned orders needs no interference and the writ

petition, is dismissed in limine. Pending miscellaneous application(s), if any, shall also stand disposed of, accordingly.

(Ranjan Sharma)
Judge

27th February, 2024
(himani)

High Court of H.P.