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**(2024) 12 SHI CK 0005**  
**High Court Of Himachal Pradesh**  
**Case No:** CWP No. 8805 Of 2023

Roma Sharma

APPELLANT

Vs

State Of H.P. & Others

RESPONDENT

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**Date of Decision:** Dec. 4, 2024

**Hon'ble Judges:** Ajay Mohan Goel, J

**Bench:** Single Bench

**Advocate:** Ashok Kumar Verma, Pushpinder Jaswal, Adarsh K. Vashista

**Final Decision:** Dismissed

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**Judgement**

Ajay Mohan Goel, J

1. Reply not filed. Right of the respondent to file reply is hereby closed. Heard learned counsel for the parties.

2. By way of this petition, the petitioner has, inter alia, prayed for the following relief:-

â€œi) That the selection of the respondent No.8 may kindly be set aside and the petitioner be re-appointed at GPS Hathol, Education Block Galore, Tehsil Nadaum, District Hamirpur as a Part Time Multi Task Worker in the interest of justice.â€

3. Brief facts necessary for the adjudication of the present petition are that according to the petitioner, in the month of April, 2022, the respondent-

Department advertised a post of Multi Task Workers in Government Primary School Hathol, District Hamirpur, H.P. The petitioner participated in the

process alongwith other candidates. She was offered appointment on 04.07.2022. Feeling aggrieved, the private respondent filed a Writ Petition before

this Court. Said petition was disposed of by this Court, directing the aggrievedÂ candidatesÂ toÂ approachÂ theÂ AppellateÂ Authority.Â The

Appellate Authority allowed the appeal filed by respondent No. 8 and a direction was issued to the Selection Committee to call upon the parties to submit their Income Certificates. Thereafter, Block Elementary Education Officer, Galore, District Hamirpur, H.P. in terms of Annexure A-3, dated 26.05.2023, passed the following order:-

“Whereas Smt. Nisha w/o Late Sh. Anil Kumar Village Birhu PO Hathol Khas Tehsil Nadaun Distt. Hamirpur (HP) had filed Civil Writ Petition titled as Nisha

Vrs State of H.P and others and Writ Petition is disposed off vide order dated 20-09-2022 by permitting the petitioner to approach the Additional District

Magistrate Hamirpur by way of an appeal, within 15 days of the order.

Whereas Additional District Magistrate Hamirpur accepted the appeal of Smt. Nisha w/o Late Sh. Anil Kumar vide case No. 06/2022 dated 28-09-2022 and

decision vide letter No: Reader/ADC/MTW-2022 dated 09/11/2022 with the direction to the selection committee to call for income certificates from the concerned parties and give the appointment to the candidates with lower income.

Hence the income certificate from both the parties were invited. As per their income certificate the annual income of Smt. Nisha w/o Late Sh. Anil Kumar is Rs.

34500/- and that of Smt. Roma Sharma w/o Sh. Anil Kumar is Rs. 34800/-

Therefore after due approval from chairperson selection committee i.e SDO (Civil) Naduan vide letter No. MA-SDN-2023-786 Dated 25-05-2023, Smt. Nisha w/o

Late Sh. Anil Kumar is recommended to the post of Part Time Multi Task Worker at GPS Hathol at a fix honorarium of Rs 5625/- per month for ten months in a

Financial Year on the term and conditions attached as ""Annexure-A"" and specimen of Contract to be signed with President SMC GPS Hathol and candidate i.e

Smt. Nisha as ""Annexure-B"".

4. Feeling aggrieved by the said order, the petitioner preferred an appeal and said appeal has been disposed of by the Appellate Authority in terms of impugned order (Annexure P-6), dated 24.07.2023.

5. In terms of the order passed by the Appellate Authority, the appointment of the private respondent has been upheld on the ground that as the merit

of the petitioner and the private respondent was the same and as erroneously earlier, the job was offered to the petitioner simply on the basis that she

was younger in age to the private respondent, this act was bad because in these circumstances, the job ought to have been offered to the candidate

with lower income first. The Authority has further held that whereas the income of the private respondent was less than that of the present petitioner,

therefore, there was no infirmity in the selection of the said candidate.

6. I have heard learned counsel for the parties and have also gone through the pleadings as well as record of the case.

7. It is not in dispute that in the process that was undertaken by the respondents to appoint a part-time multi-task worker as the merit of the petitioner

as well as the private respondent was the same, earlier the appointment was offered to the petitioner on the ground that she was younger in age as

compared to the private respondent. As a result of the litigation that took place, the appointment of the petitioner was subsequently set aside and the

appointment was offered to the private respondent primarily on the ground that in such circumstances, before one adverts to the age of the concerned

candidate, one has to take into consideration the annual family income of the candidates and age can be resorted to only if the annual family income of

the parties is also the same.

8. In the present case, it is a matter of record that the annual family income of the family of the petitioner was found to be more than that of the

selected candidate. To be more precise, the annual family income of the family of the petitioner was Rs. 34,800/- as compared to Rs.34,500/- of the

private respondent. This led to the Authority in terms of order dated 27.10.2022 (Annexure P-1), directing the Selection Committee to call for the

Income Certificates of the candidates and thereafter, offer appointment to the candidate with lower income.

9. During the course of the hearing of this case, it could not be disputed that the annual family income in terms of Income Certificates submitted by the

parties of the petitioner was more than that of the private respondent. It could also not be demonstrated during the course of arguments that in a

situation where the merit of two candidates was found to be same, then before resorting to the age factor, it had to be determined as to annual income

of which particular candidate was less. In fact, only if there was a tie on merit and the annual income was same, the Authorities could have had

resorted to the age criteria. In the present case, the Authorities earlier resorted to the age criteria without exhausting the criteria of evaluating the respecti Qve annual income of the parties.

10. In the said backdrop, this Court does not finds any infirmity in the act of the respondents of terminating the services of the petitioner and

subsequently offering the same to the private respondent on the ground that the annual income of the family of the said respondent was less than the

petitioner. Further, this Court also does not finds any infirmity in the Appellate Order passed by the Authority (Annexure P-6), dated 24.07.2023 and

holds that the conclusion arrived at by the said Authority is sustainable both in facts and in law.

11. Accordingly, in light of the above discussion, this petition is dismissed. Pending miscellaneous applications, if any, stand disposed of.