
(2006) 2 PLJR 490

Patna High Court

Case No: C.W.J.C. No. 7134 of 2003

Meena Kumari

APPELLANT

Vs

The State of Bihar and
Others

RESPONDENT

Date of Decision: April 20, 2006

Citation: (2006) 2 PLJR 490

Hon'ble Judges: Ramesh Kumar Datta, J

Bench: Single Bench

Advocate: S.C. Jha 3, for the Appellant; J.C. to G.P. 4, for the Respondent

Final Decision: Dismissed

Judgement

Ramesh Kumar Datta, J.

The petitioner has filed this writ petition for holding and declaring the selection process of Anganbari Sebika held on 24.12.2002 pursuant to the notice dated 12.12.2002 as contrary to the guideline/instructions dated 6.12.1995 of the Welfare Department and further to cancel the appointment letter issued in favour of the guideline of the State Government ignoring better claim of the petitioner.

2. The case of the petitioner is that she applied on 16.12.2002 in the office of C.D.P.O.P. Pallgani, Patna against the notice dated 12.12.2002 published on the notice board braving for selection of the eligible candidate for the post of Anganbari Sabika for Chandhos Gram Panchayat. The petitioner claims that only she has requisite qualification. She being the widow has better right to be selected for the said post. The petitioner and others appeared for the interview but Kumari was selected although according to the petitioner she being a widow she was required to be given preference in appointment over respondent No. 9, Smt. Sumiti Kumari.

3. The petitioner in support of her contention has sought to relied upon the guidelines dated 6.12.1995 issued by the Social Welfare Directorate of the Welfare Department particularly condition No. 5 which states that a widow/abandoned woman is to be given

preference in appointment. However the said contention does not take into account condition No. 1 which states that although the minimum qualification for appointment of matric fail yet a better candidate with a higher academic qualification could not be given preference. Thus, from the said two provisions it is clear that preference. Thus, from the said two provisions it is clear that preference to a widow could only have been given if she came in category of those who possessed the higher qualification. In the present case admitted fact is that the petitioner is matriculate when the respondent No. 9 is Intermediate pass.

4. The said guideline further clarify that by Circular dated 13.6.1998 issued by the Secretary of Welfare Department which has been annexed with the counter affidavit filed on behalf of the State Government. Condition No. 1 of the said circular states that the minimum academic qualification required for Anganbari Sebika is matric pass and only for Scheduled Castes/Scheduled Tribes candidates is minimum qualification would be matric fail. But candidates having higher academic qualification will be granted preference. Condition No. 5 of the said circular further makes it very clear that in case the qualification is the same then a widow/abandoned woman of the concerned class would be given preference.

5. Since the present appointment process was taken up in the year, 1998 it would be squarely covered by the guideline issued under 13.6.1998. Under the said guideline there can hardly be any doubt that respondent No. 9 having higher academic qualification of intermediate would be entitled to appointment in preference that the petitioner who is only a matriculate. The petitioner would not have the claim of preference over respondent No. 9 in terms of Condition No. 5 only she has passed intermediate.

6. Learned Counsel for the petitioner has vehemently tried to argue that the action of the respondent authorities was malafide but no pleadings are there on the record in support of the said allegation. It is an established proposition of law that malafide is to be specifically proved and mere allegation cannot justify such a plea. Hence, the said plea has also to be rejected.

7. In the result there is no merit in the writ petition and accordingly it is dismissed but with no order as to cost.