

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

WP(C) No.597/2020

SHAMSHADA AKHTER & ANR. ... PETITIONER(S)

Through: - Mr. Gulzar Ahmad Bhat, Advocate.

Vs.

UT OF J&K & ORS. ...RESPONDENT(S)

*Through: - Mr. Mubashir Majid Malik, Dy. AG-for R1 to R6.
Mr. I. Sofi, Advocate-for R7.
None for R8.*

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

**ORDER
20.12.2024**

1) The petitioners have challenged order dated 31.12.2019 passed by respondent No.3-Deputy Commissioner, Kupwara, whereby the appeal filed by respondent No.8 against the engagement of respondent No.7 as Anganwadi Worker for Anganwadi Centre, Gogree Mohalla, Kultura District Kupwara, has been dismissed. The petitioners have sought a further direction for their engagement as Anganwadi Workers for the aforesaid Centre strictly in accordance with the merit framed by the Selection Committee.

2) The facts emanating from the pleadings of the parties are that a post of Anganwadi Worker had become available

due to resignation of Anganwadi Worker of Anganwadi Centre, Gogree Mohalla, Kultura and, accordingly, vide advertisement notice No.ICDS/Lgt/Estt/15/1480-1482 dated 28.12.2015, issued by respondent No.6, applications were invited for filling up of the said post from amongst the eligible candidates.

3) It seems that the petitioners as well as private respondent Nos.7 and 8 responded to the aforesaid advertisement notice, whereafter selection process was undertaken by the official respondents. It also appears that as per the merit list prepared by the official respondents, petitioner No.1 had obtained 62.70 points, petitioner No.2 had obtained 72.41 points, private respondent No.7 had obtained 40.62 points whereas private respondent No.8 had obtained 38.75 points.

4) Certain complaints were received by the official respondents with regard to the provisional select list and after considering the same, it was found that only private respondent Nos.7 and 8 are eligible for being engaged and all other candidates including the petitioners herein were held ineligible. Thereafter the official respondents issued an engagement order in favour of respondent No.7 who was the most meritorious candidate amongst the eligible candidates. Aggrieved of this engagement order, respondent

No.8 filed an appeal before the Deputy Commissioner, Kupwara, which came to be dismissed in terms of impugned order dated 31.12.2019.

5) The petitioners have challenged the impugned order passed by the Deputy Commissioner on the ground that the petitioners are inhabitants of the hamlet where the Anganwadi Centre was functioning, as such, their candidature could not have been rejected by the official respondents. It has been contended that the petitioners are more meritorious than the private respondents, therefore, they were entitled to be selected but the official respondents have, in violation of the right of equality as guaranteed under Article 14 of the Constitution, shown favouritism to respondent No.7.

6) The official respondents, in their reply, have submitted that after conducting the interview on 19.02.2016, certain complaints with regard to residence of the petitioners and some other candidates were received by the Selection Committee. In order to ascertain veracity of these complaints, a Verification Committee was constituted on 02.03.2016. Upon receipt of the report of the Verification Committee, it was found that out of nine candidates, only two candidates, i.e. private respondent Nos.7 and 8, were eligible as per the norms. Accordingly, based upon the

verification report and the norms, respondent No.7, who was the most meritorious candidate amongst the eligible candidates, was engaged as Anganwadi Worker on 11.05.2016.

7) Private respondent No.7, in her reply to the writ petition, has contended that the petitioners are not the residents of Village Kultura but are the residents of Village Kuhru, therefore, they were not eligible to participate in the selection process. It has been further submitted that petitioner No.1 has challenged the selection of respondent No.7 belatedly by filing the instant petition after four years of her engagement whereas the previous writ petition filed by petitioner No.2 was dismissed by this court in terms of judgment dated 05.09.2022 passed in SWP No.1063/2016.

8) I have heard learned counsel for the parties and perused record of the case.

9) So far as the case of petitioner No.2 is concerned, she had challenged the selection of private respondent No.7 by way of another writ petition bearing SWP No.1063/2016. The said writ petition was dismissed by this Court by a detailed order dated 05.09.2022, wherein it was held that the said petitioner was less than 18 years of age on the first day of calendar year in which the selection was made and,

as such, she was not eligible to participate in the selection process. It is not the case of petitioner No.2 that the said order of this Court has been set aside or varied by any superior forum. Therefore, it is not open to petitioner No.1 to re-agitate the same issue before a Coordinate Bench of this Court. On this ground alone, the claim of petitioner No.2 is liable to be rejected.

10) That takes us to the case of petitioner No.1. As per the stand of the official respondents, petitioner No.1 was not a resident of Village Kultura and she was not residing in the hamlet Gogree Mohalla where the Anganwadi Centre is located. It is an admitted case of the parties that as per the norms for selection of Anganwadi Workers issued by Government vide Order No.07-SW of 2010 dated 18.01.2010, which was in vogue at the relevant time, a candidate for selection as Anganwadi Worker must belong to the hamlet where the Anganwadi Centre is located and it is only if the suitable candidate is not available in that hamlet, the candidate may be selected from the Revenue Village of which the said hamlet is a part or from a nearby Revenue Village. Petitioner No.1 has not produced on record even a single document to controvert the contention of the respondents that she does not belong to Village Kultura hamlet Gogree Mohalla. Petitioner No.1 does not dispute

the residential status of respondent No.7, the selected candidate. The petitioners have placed on record the documents which, prima facie, show that petitioner No.2 was resident of Village Kultura at the relevant time but there is not even a single document to this effect so far as petitioner No.1 is concerned. Thus, in the absence of any material on record to show that petitioner No.1 belonged to hamlet where the Anganwadi Centre is located, her claim cannot be accepted.

11) For the foregoing reasons, I do not find any merit in the petition. The same is dismissed accordingly. Interim direction, if any, shall cease to be in operation.

(Sanjay Dhar)
Judge

Srinagar
20.12.2024
"Bhat Altaf-Secy"

Whether the order is reportable: Yes/No