

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM No. 1265/2024 in
LPA No. 58/2024

Naseema Bano ...Petitioner(s)/Appellant(s)

Through: Ms. Insha Rashid, Adv.

Vs.

Union Territory of JK & Ors. ...Respondent(s)

Through: Mr. Mohd Younus Hafiz, AC

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
30.05.2025

CM No. 1265/2024

1. LPA No. 58/2024 preferred against the judgment of learned Single Judge is delayed by 57 days and hence this application for condonation of delay.
2. Despite notice, respondents have chosen not to file any objection to the condonation of delay application.
3. Be that as it may, we have gone through the application and find that the delay in filing the appeal is sufficiently explained.
4. The application for the reasons stated therein is allowed and the delay of 57 days in filing the appeal is condoned.
5. COD application is disposed of.

LPA No. 58/2024

6. This intra-Court appeal by the appellant Naseema Bano is directed against an order and judgment dated 10th November 2023 passed by the learned Single Judge of this Court [“the Writ Court”] in SWP No. 3024/2018 and SWP No. 1672/2014, whereby the Writ Court has dismissed the writ petition filed by the petitioner.

7. Briefly stated the facts leading to the filing of the petition are that the petitioner came to be engaged as Anganwadi Helper in Anganwadi Centre Takiya Vodhpura, by CDPO, ICDS Project, Kupwara vide its order dated 1st November 2006. The petitioner continued in the engagement till 11th July 2014, when her engagement was cancelled by the CDPO concerned on the ground that the petitioner had migrated from the location on account of her marriage.
8. With a view to fill up the vacancy caused due to termination of engagement of the appellant, the CDPO Kupwara issued fresh advertisement notification on 12th July 2014 inviting applications for engagement of Anganwadi Helper for in as many as 15 Anganwadi Centres including Anganwadi Centre, Takiya Vodhpura.
9. Feeling aggrieved, the appellant filed SWP No. 1672/2014 challenging *inter alia* termination of her engagement in the Anganwadi Centre concerned. The appellant also called in question a fresh advertisement notification dated 12th July 2014 issued by CDPO, Kupwara.
10. Initially, there was an interim order passed by the learned Single Judge, however, the writ petition came to be ultimately dismissed for want of prosecution vide order dated 18th July 2018. It seems that the writ petition which was dismissed for non-prosecution was later on restored. During the period when SWP No. 1672/2014 was dismissed for non-prosecution, the CDPO concerned concluded the selection process and engaged respondent No. 5 as Anganwadi Helper in Anganwadi Centre in question. This made the appellant to approach this Court again by way of SWP No. 3024/2018 in which the appellant *inter alia* called in question the order dated 12th September 2018, whereby the respondent No. 5 stood engaged as Anganwadi Worker. Both these petitions came up for consideration before the Writ Court and vide order and judgment impugned, both petitions were dismissed.
11. Ordinarily, the appellant should have filed two appeals for the reason that in terms of the impugned judgment, the Writ Court has decided two writ petitions i.e., SWP No. 3024/2018 and SWP No. 1672/2014. However, having regard to the nature of controversy involved and

with a view to put the controversy at rest, we have considered this appeal against the judgment impugned passed in both the petitions.

12. Having heard learned counsel for the parties and perused the material available on record, we are of the considered opinion that the view taken by the Writ Court on the basis of equities in the case is correct in the given facts and circumstances of the case.
13. Indisputably the appellant who came to be engaged as Anganwadi Worker in the Anganwadi Center, Takiya Vodhpura on 1st November 2006 continued in the engagement for almost 18 years. It was only when the appellant was married outside her village and outside the location where the Anganwadi Center was situate, the CDPO was constrained to disengage her services. Fresh selection process was initiated in terms of advertisement notification dated 12th July 2014 and the same was concluded with engagement of respondent No. 5 as Anganwadi Helper in Anganwadi Center concerned vide order dated 12th September 2018 passed by CDPO, Kupwara. Respondent No. 5 is none other than sister-in-law of the appellant and is now continuing in the engagement for the last about seven years.
14. It is true that before disengaging, the appellant in terms of order dated 11th July 2014, she ought to have been put on notice. However, in view of the admitted position that the appellant has migrated after her marriage from the location where Anganwadi Center is sanctioned, no amount of notice given to the appellant would have improved her position.
15. The primary object of the ICDS is to provide Anganwadi Workers and Anganwadi Helpers from the local community so that they are available to provide services to the children, destitute, pregnant ladies and others in need of nutrition 24x7. A person who is married outside the village and is permanently residing in a far-off location would not be in a position to achieve the object of the scheme. It is on this count that respondents have clearly stipulated that the engagement as Anganwadi Helper or Anganwadi Worker would be lost if the incumbent leaves the location of Anganwadi Center and starts living outside such location on account of marriage or otherwise. It is in this

- background that the Writ Court has taken a view that the appellant had lost her appointment. The Writ Court also invoked its equitable jurisdiction not to disturb the respondent No. 5 who had been in a position for the last about eight years and was not a stranger to the appellant. The writ court was also of the opinion that the employment has remained within the family and there was no good cause available to the appellant to agitate the matter.
16. For the foregoing reasons, we do not see any justification to take a view different from the one taken by the Writ Court.
17. In these circumstances, the appeal is found to be without any merit and the same is accordingly dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
30.05.2025
Altaf

Whether approved for reporting? Yes/No