

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

LPA 176/2024 in[SWP 1384/2016]

SALEEMA BEGUM

...Petitioner/Appellant(s)

Through: Mr. Bilal Ahmad Malla, Advocate

Vs.

UT OF JK AND OTHERS

...Respondent(s)

Through: Mr. Waseem Gul, GA for 1 to 4
Mr. Mir Majid Bashir, Advocate for 5

CORAM:

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

ORDER

30.10.2025

Sanjeev Kumar-J (Oral):

1. Impugned in this appeal, filed under Article 226 of the Constitution of India, is an order and judgment dated 31st May, 2024, passed by the learned Single Judge of this Court [“the writ Court”] in SWP No. 1384/2016 titled “*Saleema Begum Vs. State of J&K & Ors.*”, whereby the writ Court has allowed the writ petition filed by respondent No. 5 and quashed the order dated 28th June, 2016, whereby the engagement of respondent No. 5 as Helper in Anganwadi Centre, Nagni (Shatigam), had been cancelled.
2. Briefly stated, the facts leading to the filing of this appeal are that vide Advertisement Notification dated 21st February, 2015, issued by the respondent No. 4, applications were invited for engagement of Anganwadi Helper for various Anganwadi Centres, including the Anganwadi Centre, Nagni Shatigam. The appellant as well as

respondent No. 5 responded to the aforesaid advertisement notification and participated in the selection process. The process of selection culminated in the selection and engagement of respondent No. 5 vide order dated 30th May, 2016.

3. The selection and engagement of respondent No. 5 was objected to by the appellant by filing a representation on the ground that the appellant was more meritorious than the respondent No. 5. The appellant also sought intervention of the local Panches and Sarpanches as well as the Minister concerned. It seems that on the intervention made by the Minister concerned, the engagement order issued in favour of the respondent No. 5 was withdrawn, and in her place, the appellant was engaged as Anganwadi Helper in the Anganwadi Centre in question. This order of respondent No. 4, dated 28th June, 2016 cancelling the engagement of respondent No. 5 and ordering the engagement of the appellant was assailed by the respondent No. 5 in SWP No. 1384/2016.
4. The writ petition was contested by the appellant, asserting her right to engagement on the ground that she was more meritorious than respondent No. 5 and also that she fell in the category of 'poorest of the poor' and, therefore, was entitled to preferential treatment as per the terms of the Scheme.
5. The writ Court, having considered the rival contentions and perused the material on record, came to the conclusion that the appellant herein being only a 7th pass, was not eligible to be appointed as Anganwadi Helper in the face of availability of an eligible candidate i.e. respondent No. 5 possessing the qualification

of 8th pass. The writ Court vide judgment impugned allowed the writ petition in the manner we have noticed hereinabove.

6. It is this judgment of the writ Court which is called in question before us by the appellant, primarily on the ground that the writ Court has failed to appreciate that the respondent No. 5 was not the resident of Hamlet Nagni of Revenue Village Shartigam, and therefore, the appellant being the only candidate available in the village having the qualification of 7th pass was also eligible and entitled to be engaged.
7. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment impugned passed by the writ Court is perfectly legal and in conformity with the facts on record. Indisputably, the appellant did not take exception to the engagement of respondent No. 5 on the ground that she did not belong to Hamlet Nagni, either in her representation or in the reply affidavit filed before the writ Court. The plea raised by the learned counsel for the appellant is totally an afterthought and has been raised for the first time in this appeal, that too without substantiating it by any cogent documentary evidence.
8. The only case which was set up by the appellant before the writ Court in its reply affidavit was that the appellant was more meritorious than the respondent No. 5 and also that she fell in the category of 'poorest of the poor' in the village, entitled to preferential treatment. Both these aspects have been dealt with by the writ Court in the light of the Scheme in vogue at the time of issuance of the advertisement notification. It is not disputed before

us that as per the scheme which was in vogue at the relevant point of time, the minimum qualification prescribed for being engaged as Anganwadi Helper was middle pass. It was only if a middle pass candidate was not available, the candidates with lesser qualification were entitled to be considered. In the instant case, the respondent No. 5, a local candidate belonging to Hamlet Nagni with qualification of middle pass was available, and therefore, the appellant with a qualification of below that, was ineligible to be considered for the position in question.

9. The writ Court has also rightly concluded that an ineligible cannot seek preference on the ground that he or she belongs to a category for which preference has been provided in the scheme. The eligibility is *sine qua non* for engagement and in the instant case the eligibility criteria was 8th pass. It is only where the 8th pass candidates are not available in the village concerned, the candidates with lesser qualification can be considered.

10. For the forgoing reasons, we find no merit in this appeal and the same is, accordingly, **dismissed**.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

30.10.2025

"ARIF"

- (i) Whether the Order is reportable? Yes/No.
- (ii) Whether the Order is speaking? Yes/No.