

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A. No. 3110 of 2015 (O&M)

Date of decision : September 28, 2015

Rajwant Kaur

... Appellant

vs.

Balwinder Kaur & others

... Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Premjit Singh Dhaliwal,
Advocate for the appellant.

Surinder Gupta, J

Heard.

Balwinder Kaur-respondent no.1 filed suit seeking relief of declarations as follows:-

“Suit for declaration to the effect that the selection and appointment of defendant no.1 Rajwant Kaur for the post of Anganwari worker of Village Havelian Mehdiapur, Tehsil Patti, District Tarn Taran is ultra virus, unconstitutional, illegal, against law and the same be declared as null and void and the same may be set aside, AND

Further suit for declaration to the effect that the plaintiff is eligible/suitable candidate for the post of Anganwari worker of Village Havelian Mehdiapur, Tehsil Patti, District Tarn Taran for which the defendant no.5 by virtue of Punjab Government Notification No.11/133-2001-6SS/159 dated 9.1.2004 and further the plaintiff is liable to be appointed as Anganwari worker of Village Havelian Mehdiapur, Tehsil Patti, District Tarn

Taran in accordance with the letter of Punjab Government bearing no.13/IC.D.S./09/20642-6 dated 20.7.2009, with consequential relief of mandatory injunction to the effect that the defendant no.5 be directed/instructed to issue a new notification/publication for reappointment of Anganwari worker of Village Havelian Mehdiipur, Tehsil Patti, District Tarn Taran.”

The case of the plaintiff-Balwinder Kaur in brief is that as per the qualification prescribed for being appointed as *Anganwari* worker, she was qualified to be posted as *Anganwari* worker in Village Havelian Mehdiipur. She had applied for the said post in June 2010, but no information was given to her, rather, Rajwant Kaur, defendant no.1, (now appellant) was appointed being the daughter-in-law of the Village Sarpanch. She challenged the appointment of defendant no.1 alleging the same to be against the instructions of Punjab Government.

Defendant no.1 contested the claim of plaintiff, *inter alia*, pleading that the plaintiff was married to Jasbir Singh of Village Havelian Mehdiipur and was living their along with her husband. She had applied for the post of *Anganwari* worker. Against her non-selection, she filed a writ petition in this court which was dismissed with liberty to file civil suit or approach any other proper forum. Thereafter, she approached Director, Social Security and Women Development, Chandigarh and her representation was still pending. She had wrongly mentioned her address as resident of Village Havelian Mehdiipur by making overwriting in her ration card, in fact, she is resident of House No.44, Guru Nanak Colony, Patti, District Tarn Taran, where, she is residing along with her husband and other

family members. As she was not resident of Village Havelian Mehdiipur, she was not competent to be appointed as Anganwari worker. A verification on this point was also got conducted by the concerned department for appointment of defendant no.2 (appellant) as *Anganwari* worker.

The suit was partly decreed by Civil Judge (Junior Division) Patti holding that the appointment of Rajwant Kaur-defendant no.1 was not in accordance with the guidelines and instructions of the Government and the same is not valid. Director Women and Child Development Department, Punjab, Chandigarh, was directed to consider the matter of appointment afresh and to decide the same within a period of two months after proper verification. The court also recommended penal action against the officials of the department, if anybody found guilty of providing illegal and undue advantage to any candidate. While reaching the above conclusion, the Court relied upon the voter card, ration card and voter list produced and proved on file by the plaintiff-respondent no.1. The relevant observations are contained in para 10 of the judgment which reads as follows;-

“No doubt it is clear and non (*sic not*) disputed that plaintiff and defendant no.1 fulfilled the conditions related to education and age and department has discarded the plaintiff on the basis of condition related to residence and appointed defendant no.1 on the post of Anganwari worker but from the material (identity proof) produced by the plaintiff regarding her residence i.e. Ex.PW1 to Ex.PW4 and mark Q, it comes out that she is the resident of the Village Havelian Mehdiipur. It is also not understandable that if the defendants claimed that the plaintiff has forged these documents in order to get the appointment then

why they have not preferred any criminal action against the plaintiff. In the pleading, it is averred by the defendant no.3 to 6 that the department has discarded the plaintiff on the basis of verification conducted by Surjit Kaur, Supervisor, who's report is Ex.D2 in which it is mentioned that the relations of the plaintiff are strained with her in laws and she is not resident of village Havelia Medipur. It is pertinent to mention here that the same report was prepared by Surjit Kaur after consulting the in-laws of the plaintiff and in the report it has been admitted that the in-laws were not in good terms with plaintiff. It is highly improbable that the person in strained relations will furnish correct information qua the other person. In these circumstances, it was incumbent upon the verification officer to consult the other permanent residents or panchayat members to prepare the report. Moreover defendant no.1 Rajwant Kaur in the cross examination admitted that the house of the plaintiff is next to her house in the village Havelia Mehdipur. It is also admitted by her that plaintiff is elder from her by nine years. It is worth mentioning here that perusal of merit list prepared by department concerned i.e. mark A reveals that plaintiff was discarded and defendant no.1 was appointed because plaintiff was not the permanent resident of the village but department has not mentioned the reason for discarding one of the candidate Varinder Kaur who was also on the same pedestal as per the qualification and especially when she was elder in age than defendant no.1”

Not satisfied, defendant no.1-Rajwant Kaur filed an appeal, which was dismissed by Addl. District Judge, Tarn Taran.

Learned counsel for the appellant has argued that both the courts below have wrongly placed reliance on the documents produced by the plaintiff, which pertain to the years 1995 and 2003. The courts have wrongly discarded the verification report Ex.D2 submitted by Surjit Kaur, Supervisor on the ground that it was prepared in connivance with the in-laws of plaintiff. The court also discarded the documents produced by the defendant no.1 i.e. electricity bills and voter list of 2009 to show that appellant Rajwant Kaur was resident of Patti and not of Village Havelian Mehdipur.

On perusal of the file, I find that both the courts on considering the documents placed on record, have discarded the verification report submitted by Surjit Kaur, Supervisor, which she prepared in consultation with the in-laws of plaintiff. In her report she had submitted that plaintiff was not residing at Village Havelian Mehdipur because of her strained relation with her in-laws. Both the Courts below were in unison while observing that the concerned official i.e. Surjit Kaur, Supervisor should have associated some resident of the Village while making the report and could not base her report solely on the information given by the in-laws of plaintiff with whom she had strained relations. Both the courts below have committed no error of law or fact while relying on the documents produced by the plaintiff. It may be that these documents pertain to the year 1995 or 2003, the documents produced by the plaintiff were also stated to be of the period 2009 and the electricity bill cannot be taken as a proof of residence at a particular address. While taking the caution, the Courts below have

directed the Director Women and Child Development, Punjab, to look into the matter of appointment of *Anganwari* worker of village Havelian Mehdipur and to decide the same again after conducting proper verification, which will in no manner prejudice the plaintiff or the defendant.

On perusal of the paper book and the judgment of the courts below, I find no legal or factual infirmity calling for any interference. This appeal has no merit and the same is dismissed.

Respondent no.5-Director Women and Child Development Department, Punjab, Chandigarh is directed to comply with the directions issued by the Civil Judge (Jr. Division), Patti within a period of four months. It is, however, clarified that in the event of selection of appellant being found valid by respondent no.5, nothing observed by the court below will come in her way to continue on that post.

(Surinder Gupta)
Judge

September 28, 2015
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