

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION Nos.15832 & 17377 OF 2007

Dated:27.09.2016

Between:

Smt. B. Aruna, S/o.B. Mohan,
Aged about 20 years, Occ: Anganwadi
Worker, Ellantakunta (Village) and
Mandal, Karimnagar District

.. Petitioner

AND

The Director, Women & Child Welfare
Department, H.No.8-3-222, Vengalraonagar
P.O., A.P., Hyderabad and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION Nos.15832 & 17377 OF 2007

COMMON ORDER:

In response to a local notification issued to fill up the post of Anganwadi Worker in Ellanthakunta Village, the petitioner applied on 20.10.2006. In the selections conducted by the respondents, the petitioner was selected and by proceedings dated 23.04.2007, she was appointed as Anganwadi Worker in Ellanthakunta Anganwadi Centre. When the petitioner reported to duty on 28.04.2007, she was not permitted to joint duty. Aggrieved thereby, the petitioner filed W.P.No.15832 of 2007. In the said Writ Petition, the petitioner challenges Memo No.11729/K3/2001, dated 29.11.2001, wherein a clarification was issued prescribing the age limit for Anganwadi Workers as 21 - 45 years. During the pendency of the above Writ Petition, by order dated 08.08.2007, the petitioner was terminated. Challenging the same, the petitioner filed W.P.No.17377 of 2007. This Court, by order dated 14.08.2007 in W.P.M.P.No.22219 of 2007, suspended the order of termination.

2. Learned counsel for the petitioner as well as learned Government Pleader for Women Development and Child Welfare appearing for respondents 1, 3 and 4 informed the Court that the petitioner is continuing as Anganwadi Worker as a consequence of the interim order granted by this Court.

3. The only issue for consideration in these Writ Petitions is whether the subsequent decision of the respondents terminating the services of the petitioner on the ground that she was only aged 20 years on the date of consideration and that the minimum age prescribed for eligibility is 21 years and therefore she was ineligible to be appointed, can be sustained.

4. Learned counsel for the petitioner submits that prescription of age as 21 - 45 years in the clarificatory memo, dated 29.11.2001, based on which the services of the petitioner were terminated, is not valid and contrary to the Government of India Guidelines on Recruitment of Anganwadi Workers. According to the Government of India Guidelines, an extract of which is enclosed to the reply affidavit filed by the petitioner in W.P.No.15832 of 2007, the age prescribed is 18 - 44 years. The relevant extract reads as under:

“IV. Anganwadi Worker

3.2.12 The anganwadi worker should be a lady (18-44 years) from the local village and acceptable in the local community. Special care should be taken in her selection so that the children of Scheduled Caste and other weaker sections of the society are ensured free access to Anganwadi. It is suggested that the AWWs in the selected project areas may be selected by a committee consisting of the District Social Welfare Officer, the BDO, the CDPO, the Medical Officer of the primary health centre, the President of the Taluka Panchayat/Block Advisory Committee, the District Representative of the State Social Welfare Advisory Board and any other non-officials which the State Government may consider appropriate.”

5. In the affidavit filed in support of W.P.No.15832 of 2007, it is specifically asserted by the petitioner in paragraph No.5 that as per Clause 3.2.12 of the Government of India Guidelines, the age prescribed is 18 – 44 years and the petitioner was aged 20 years by the time she was considered and therefore she was eligible to be considered and the decision holding her under aged and that she suppressed the factum of her age is illegal. Paragraph No.5 of the counter affidavit deals with the said contention. Though it is admitted that the Government of India Guidelines prescribe the age as 18 - 44 years, but reliance is made on some Guidelines of ICDS Scheme which prescribe the age as 21 – 45 years to support their decision. No relevant material is placed along with the counter affidavit to show that such guidelines were issued and if so, those guidelines would supersede the guidelines issued by the Government of India and that the superseded Guidelines were applicable when the selections were made. It appears from the record placed in the Writ Petitions that there is no dispute about the Government of India prescribing the minimum age as 18 years. If the minimum age prescribed is 18 years, the petitioner was within the age of eligibility when the selections were made. Since the petitioner has enclosed all the relevant material in support of her date of birth, it cannot be said that the petitioner suppressed the age nor declared herself aged as 21 years.

6. Furthermore, as stated by learned counsel for the petitioner and learned Government Pleader that consequent to the

interim order of this Court in W.P.No.17377 of 2007, the petitioner is continuing in the post for the last nine years. Thus, even otherwise, it is not just and equitable to throw away the petitioner on the ground that at the time of her selection, she was less than 21 years.

7. The Writ Petitions are accordingly allowed and the respondents are directed to continue the petitioner in service in accordance with the service conditions as applicable to the Anganwadi Workers. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these Writ Petitions shall stand closed.

Date:27.09.2016

KH

P. NAVEEN RAO, J

