

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.24162 of 2006

ORDER :

The petitioner has filed this Writ Petition assailing the Procs.No.10/06 dt.28.09.2006 of the Child Development Project Officer, (for short, 'the impugned proceeding') canceling her selection as an Anganwadi worker on the ground that she was aged below (21) years as on 25.12.2005.

2. The counsel for petitioner contends that notification was issued on 09.01.2006 inviting applications from eligible candidates for the post of Anganwadi workers in Vizianagaram District to fill up (222) posts of Anganwadi workers; that petitioner had applied for it; that she was interviewed on 24.01.2006 in the Office of the Sub-Collector, Parvathipuram, and she was selected, as such, for Nondukona Anganwadi center; that she completed one month training and was awaiting appointment order, when the impugned proceeding was received by her stating that she was ineligible for appointment since she did not have the prescribed age limit of (21) years.

3. The counsel for petitioner contends that Rule 5 of the Andhra Pradesh Women and Child Welfare Sub-Ordinate Services Rules stipulate a minimum age of (18) years for Anganwadi workers, and the respondents cannot contend that the minimum age for recruitment is (21) years; that the petitioner had completed (20) years (6) months

at the time when she was appointed; that on 27.09.2016 in WP.Nos.15832 and 17377 of 2007, this Court had held that persons can be appointed as Anganwadi workers on completion of (18) years as per Government of India guidelines; and that the State of Andhra Pradesh has not placed any material to show that the Government of India's guidelines can be superseded by the State Government.

4. The learned Government Pleader for Women and Child Welfare contended that the requisite age of (21) years as on 25.12.2005 is required to be possessed by petitioner, since that was the last date for receiving applications, and therefore, the orders were issued by the Project Director, DW & CDA, Vizianagaram vide Memo No.1322/05/A dt.28.09.2006, canceling petitioner's selection; that the Andhra Pradesh State and Subordinate Service Rules are not applicable to Anganwadi workers and Anganwadi helpers; and that as per a Circular Memo No.15763/K3/98 dt.21.08.1998 issued by the 3rd respondent, a candidate for the post of Anganwadi worker should be of the age group 21 – 45 years.

5. The learned Government Pleader for Women and Child Welfare has however not disputed that this Court in WP.Nos.15832 and 17377 of 2007 has held that as per the guidelines issued by the Government of India, minimum age is (18) years. He has also not placed any material before this Court to show that the Memo No.1322/05/A dt.28.09.2006 overrides the Government of India's guidelines.

6. In the said order, a learned Single Judge of this Court held :

“5. In the affidavit filed in support of WP.No.15832 of 2007, it is specifically asserted by the petitioner in paragraph no.5 that s 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 WP.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.”

7. Having regard to the said decision of this Court, the present Writ Petition is also allowed and it is declared that petitioner is eligible to hold the post of Anganwadi worker since admittedly she was above 18 years of age prescribed by Government of India guidelines, so the impugned order dt.28.09.2006 issued by 1st respondent is set aside; and the 1st respondent is directed to give an appointment order to petitioner as Anganwadi worker within a period of eight (8) weeks from the date of receipt of a copy of this order. No order as to costs.

8. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 15-02-2017

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