

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 7158 of 2007**

Meena Bai D/o Dhelau Prasad, aged about 42 years, R/o village
Bhainsbod, Tahsil Pandaria, District Kabirdham, CG

---- Petitioner**Versus**

1. The State of Chhattisgarh, through the Secretary, Panchayat Department, D.K.S. Bhawan, Raipur, CG
2. The Collector, District Kabirdham, CG
3. Project Officer, Integrated Child Development, Pandaria, District Kabirdham, CG
4. Janpad Panchayat through the Chief Executive, District Kabirdham, CG
5. Smt. Saroj Bai W/o Prakash Satnami, aged about 25 years, R/o village Bhainsbod, Tahsil Pandaria, District Kabirdham, CG
6. Anjani Bai W/o Shri Kumar Panika (wrongly mentioned as Jauje Kumar Panika in the impugned order), aged about 27 years, R/o village Bhainsbod, Tahsil Pandaria, District Kabirdham, CG
7. Nemin Bai D/o Jeevan Das Panika, aged about 25 years, R/o village Bhainsbod, Tahsil Pandaria, District Kabirdham, CG

---- Respondents

For Petitioner	:	Shri Prateek Sharma, Advocate
For Respondent no.4	:	Shri Sushil Dubey, Advocate
For Respondent no.5	:	Shri Sushil Sahu, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****04/04/2018**

The petitioner through the present writ petition has assailed the order dated 03.07.2007 Annexure P-4 whereby the respondents have appointed respondent no.5 as Angan Badi Sahayika at village Bhainsbod of Gram

Panchayat, Dabari, Tahsil Pandaria, District Kabirdham (CG). The petitioner has also challenged the order dated 28.09.2007 Annexure P-7 whereby the appeal preferred against the order dated 03.07.2007 was dismissed by the Additional Collector, District Kabirdham.

2. Brief facts of the case are that an advertisement for the post of Angan Badi Sahayika was issued by Gram Panchayat Dabari. Four persons had applied for the said post. After scrutinizing all the documents by the Gram Panchayat, a list was published placing respondent no.6 at serial no.1, respondent no.7 at serial no.2, respondent no.5 at serial no.3 and the petitioner at serial no.4. The Gram Panchayat vide their resolution dated 11.12.2006 recommended for granting appointment to respondent no.6 Anjani Bai. So far as the other three candidates including the petitioner are concerned, their claim was rejected on different counts. While recommending the name of respondent no.6 as the selected candidate, the authorities had found the petitioner to be over aged and therefore, she could not be considered for appointment. Though the name of respondent no.6 was resolved to be selected as Angan Badi Sahayika, surprisingly when the appointment order was issued, it was respondent no.5 who was shown as the person appointed by the Gram Panchayat. Against the said order, the petitioner preferred an appeal before the Additional Collector who vide the impugned order dated 28.09.2007 (Annexure P-7) rejected the appeal of the petitioner leading to the filing of the present writ petition.

3. Counsel for the petitioner submits that the petitioner was the most eligible candidate and that respondent no.5 and other candidates were not eligible for being considered for the post. According to the petitioner, the appointment to the post of Angan Badi Sahayika ought to have been done in accordance with the guidelines framed by the State Government which in the instant case has not been followed. According to the petitioner, the major

factor which ought to have been kept in mind by the Gram Panchayat while making selection was that the widows and the deserted ladies were to be given utmost priority. In addition, what ought to have been kept in mind was that the candidate should be belonging to BPL category and also to SC & ST community. As far as possible it should be ensured that the candidate is a qualified person at least with matriculation. If the candidates do not have that much qualification then the qualification can be reduced to the candidates having some education. But under no circumstance should an illiterate be appointed as Angan Badi Sahayika. According to the petitioner, she was firstly qualified, secondly belonged to the reserved category and was a deserted lady as well. Counsel for the petitioner submits that the petitioner fulfilled all the requisite eligibility criteria which were otherwise prescribed under the guidelines. He submits that respondent no.5 was an illiterate lady and one of her family members was already in employment. Thus, she was ineligible. Likewise, respondent no.6 who was in fact recommended by the Gram Panchayat was also an illiterate. So far as respondent no.7 is concerned, she had though education of IVth Class but her father was a Kotwar of the said village. Thus, from the credentials of all the four candidates, it was the petitioner alone who was most eligible to be selected.

4. So far as the issue of the petitioner being over aged is concerned, according to the counsel for the petitioner, the petitioner was entitled for age relaxation under the Chhattisgarh Lok Seva (Anusuchit Jatiyon, Anusuchit Jan Jatiyon Aur Anya Pichhde Vargon Ke Liye Arakshan) Adhiniyam 1994 and Chhattisgarh Civil Services (Special Provision for Appointment of Women) Rules 1997. According to the counsel for the petitioner, if the petitioner had been granted relaxation of age under the aforesaid Act of 1994, she could not have been declared ineligible. Given the aforesaid facts and circumstances of the case, counsel for the petitioner sought for quashment of the order

passed by the Additional Collector dated 28.09.2007 Annexure P-7 so also the order of appointment of respondent no.5.

5. Opposing the petition counsel appearing for respondent no.4, the contesting respondent so also counsel for respondent no.5 submitted that the petition is totally misconceived and is not sustainable. According to them, on the date of consideration, the petitioner was more than 47 years of age and therefore she could not have been under any circumstance considered for recruitment. So far as the act and the rules for granting relaxation of age in the recruitment process for SC & ST category candidates are concerned, the same would be applicable only in respect of recruitment of a government post and the post of Angan Badi Sahayika is not a government post and they do not receive regular pay scale/salary rather they are paid only nominal honorarium. It was further contended that the recruitment otherwise was not in accordance with any scheme or rule framed under Article 309 of the Constitution of India. Thus, the petitioner would not have been entitled for the age relaxation part.

6. Having heard the contentions put forth on either side and on perusal of the record, some of the admitted facts as it stand are that the petitioner as well as respondents 5 to 7 had applied for the post of Angan Badi Sahayika at village Bhainsbod under Gram Panchayat Dabari. The Gram Panchayat upon scrutinizing the papers found respondent no.6 to be the most suitable candidate and accordingly recommended the name of respondent no.6 as is evident from Annexure P-2. Likewise, the petitioner in the selection list was placed at serial no.4 and her age was found to be more. The guidelines laid down by the State Government in respect of the appointment of Angan Badi Sahayika clearly envisage that only those candidates who are in between the age of 18 to 44 years would be considered. There was no clause of any relaxation of age provided under the rules. The petitioner's date of birth, as per the school record, is 14.05.1959 and as such on the date of recruitment,

she was about 47 years and at the time of filing of the present petition, she was more than 48 years. Today, i.e. in 2018, the petitioner's age is around 59 years which exceeds all permissible limits of being considered for employment.

7. Given the factual matrix of the case, this Court is of the opinion that by efflux of time the petition has become infructuous. Even otherwise, if respondent no.5 was found ineligible by the Gram Panchayat for appointment yet the petitioner would not have got the right of being considered for the reason that in any case, the Gram Panchyat had recommended the name of respondent no.6 for being considered for employment. Thereafter it was respondent no.7 whose name appeared at serial no.2 in the recommendation made by the Gram Panchayat. Under the aforesaid circumstance, the petitioner would not have been able to get any advantage even if the appointment of respondent no.5 stands quashed.

8. Given the aforesaid factual matrix of the case, this Court does not find any strong case made out by the petitioner calling for an interference with the appointment of respondent no.5 and the order passed by the appellate authority i.e. Annexure P-7. The writ petition thus being devoid of merit deserves to be and is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**