

((1))

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.9781 OF 2017

Shashikala d/o Dhondiram Bandal,
Age 50 years, Occu. Anganwadi Karyakarti,
R/o Pimparkheda, Post Hivara,
Tq. Ashti, District Beed ... PETITIONER

VERSUS

1. The State of Maharashtra
through Secretary,
Department of Welfare Department,
Mantralaya, Mumbai - 32
2. Member Secretary,
District Selection Committee-cum-the
Deputy Chief Executive Officer,
Zilla Parishad, Beed
3. The District Collector-cum-President,
District Selection Committee,
Zilla Parishad, Beed,
4. The Member,
District Selection Committee,
Chief Executive Officer,
Zilla Parishad, Beed
5. Smt. Kavita d/o Udhavrao Admuthe,
Age 40 years, Occu. Anganwadi Supervisor,
R/o Pachangri, Tq. Patoda,
District Beed.

(Copy of respondent No.1 is served
on Government Pleader, High Court of
Bombay, Bench at Aurangabad)

... RESPONDENTS

.....
Mrs. S.D. More, Advocate for petitioner
Mr. C.S. Kulkarni, A.G.P. for State
Mr. U.S. Mote, Advocate for respondents No.2 and 4
Mr. P.D. Suryawanshi, Advocate for respondent No.5
.....

((2))

CORAM: PRASANNA B. VARALE AND
 MANISH PITALE, JJ.

DATED : 5th OCTOBER, 2018.

JUDGMENT (PER MANISH PITALE, J.) :

1. Rule. Rule made returnable forth and heard finally by consent of learned counsel for the parties.

2. By this petition, the petitioner has challenged the appointment of respondent No.5 as Anganwadi Supervisor by appointment order dated 29.6.2015 and the main ground of challenge is that the said respondent does not satisfy the requirement of having experience of at least 10 years as Anganwadi Sevika + Balwadi Shikshika + Anganwadi Madatnis. It is the case of the petitioner that, the advertisement issued by the District Selection Committee stipulated the said condition of minimum experience of ten years and that, there was material made available to the petitioner under the Right to Information Act, 2005, which demonstrated that the respondent No.5 did not satisfy the said condition.

3. An advertisement dated 7.4.2015 was issued by the District Selection Committee (respondent No.2) inviting applications for appointment of the post of Anganwadi Supervisor.

This advertisement indeed stipulates the condition, interalia, of minimum experience of ten years as aforesaid. In pursuance to the said advertisement, the petitioner, the respondent No.5 and other candidates applied for appointment to the post of Anganwadi Supervisor. The process of selection was completed and the District Selection Committee issued the list of successful candidates wherein the respondent No.5 was placed at Sr.No.14, while the petitioner was placed at Sr.No.1 in the waiting list. By order dated 29.6.2015, the respondent No.5 was appointed on the aforesaid post.

4. The petitioner applied for information under the Right to Information Act, 2005, to the Project Officer, seeking information as regards the number of years of experience of respondent No.5. In response to the same, an experience certificate dated 13.4.2015 was issued by the Project Officer, stating that the respondent No.5 had experience of 8 years and 4 months as Anganwadi Sevika. The letter dated 18.8.2016 issued by the Project Officer also stated that the duration of experience of respondent No.5 pertaining to Balwadi Shikshika was not available as the office of the Project Officer was not concerned with the same. It is on the basis of this material that the petitioner has approached this Court, claiming that the respondent No.5 did not have requisite experience of ten years and that, therefore, her appointment was liable to be set aside.

5. This Court issued notice on 9.10.2017 in the Writ Petition, in response to which the respondent No.5 and respondent No.2 filed their respective affidavits-in-reply. The respondents placed on record documents to show that verification of documents of respondent No.5 had been undertaken by the Deputy Executive Officer, i.e. respondent No.2 who was also Member Secretary of the District Selection Committee, wherein it was found that the respondent No.5 did have experience of more than ten years as Anganwadi Sevika and Balwadi Shikshika. It was also contended on behalf of the said respondents that the Writ Petition challenging the appointment of respondent No.5 was belated, because the appointment order was issued on 29.6.2015 while the Writ Petition was filed on 28.6.2017. On this ground also the respondents prayed for dismissal of the Writ Petition.

6. Heard learned counsel for the parties. The only grievance raised on behalf of the petitioner in the present case is that, the respondent No.5 did not satisfy the requirement of experience of ten years as per the advertisement dated 7.4.2015 and that, therefore, the appointment order dated 29.6.2015 was liable to be set aside. The only document on which the petitioner relies is an experience certificate dated 13.4.2015 issued by the Project Officer, wherein it is stated that, the respondent No.5 had

experience of 8 years and 4 months as Anganwadi Sevika from the date 30.11.2006. It is the case of the petitioner that the said experience certificate clearly demonstrated that the respondent No.5 was not eligible to even apply for appointment to the post of Anganwadi Supervisor and that therefore, her appointment deserves to be set aside.

7. A perusal of the documents placed on record by the respondents shows that, a certificate dated 23.10.2015 has been issued by the respondent No.2 stating that the respondent No.5 had experience of 10 years and 10 months. A letter dated 20.4.2017 issued by the Block Education Officer addressed to the respondent No.2 shows that, upon enquiry into the matter, including verification of monthly attendance certificates, it was found that respondent No.5 did have experience as Balwadi Shikshika from 14.2.2004 to 31.10.2006. Even if the document heavily relied upon by the petitioner i.e. experience certificate dated 13.4.2015 is accepted, which shows that the respondent No.5 is having experience of Anganwadi Sevika of 8 years and 4 months, the letter dated 20.4.2017 issued by the Block Education Officer clearly shows that prior to working as Anganwadi Sevika, the respondent No.1 had worked as Balwadi Shikshika from 14.2.2004 to 31.10.2006.

8. A perusal of the relevant conditions specified in the

advertisement dated 7.4.2015 shows that the requirement of minimum experience of ten years is to be on the post of Anganwadi Sevika + Balwadi Shikshika + Anganwadi Madatnis. Thus, it is clear that the total experience of a candidate on the said posts has to be taken into consideration to verify as to whether the requirement of experience of minimum ten years has been satisfied. In the present case, the certificate dated 23.10.2015 shows that the total experience of respondent No.5 is 10 years and 10 months. The said experience includes experience in the post of Balwadi Shikshika for the period 14.2.2004 to 31.10.2006 and experience as Anganwadi Sevika from 30.11.2006 to 13.4.2015, as stated in the experience certificate relied upon by the petitioner herself. When the experience of respondent No.5 in the two posts is added, it clearly crosses the minimum requirement of experience of ten years and, therefore, the contention raised on behalf of the petitioner in this regard against the respondent No.5 is rendered unsustainable.

9. It has also come on record that, a question was raised on the floor of the house as regards irregularity in selection and appointment of respondent No.5 in the post of Anganwadi Supervisor and that all the aforesaid documents, upon proper enquiry and verification, were placed on record, which demonstrated that, the respondent No.5 indeed had experience

((7))

of more than ten years, satisfying the requirement specified in advertisement dated 7.4.2015.

10. As the only ground raised by the petitioner in the instant petition for challenging the appointment of respondent No.5 is not supported by material on record and on the contrary, the respondent No.5 has successfully placed on record sufficient material to show that she indeed satisfied the requirement of minimum experience of ten years for the post of Anganwadi Supervisor, it is found that the present Writ Petition is devoid of any merits.

11. Accordingly the Writ Petition is dismissed. Rule discharged.

(MANISH PITALE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

fmp/-