

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.3221 OF 2007

ORDER

This writ petition is filed seeking the following relief:

“... to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus to declare the impugned proceedings No.1652/A/06, dated 30-01-2007 issued by the first respondent in favour of the 6th unofficial respondent is arbitrary, illegal and in violation of the Articles 14, 16 and 21 of the Constitution of India and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Heard Sri Kummathi Venkatesulu, learned counsel appearing for the petitioner, learned Government Pleader for Women and Child Welfare appearing for respondents 1 to 5 and Sri G.Ramachandra Reddy, learned counsel appearing for the 6th respondent.

It is the case of the petitioner that pursuant to the notification issued by the District Collector on 17.2.2006, she applied for the post of Anganwadi Worker/Helper in Anantapur District and participated in the selection process. Even though the petitioner was more meritorious than the 6th respondent, due to the political pressure in the selection process, the respondent authorities have ignored the merit of the petitioner and appointed the 6th respondent.

Learned counsel appearing for the petitioner submits that the application of the petitioner was assigned serial No.103, whereas the application of the 6th respondent was assigned serial No.103-A, which would clearly establish that the application of the 6th respondent was inserted and it was assigned Serial No.103-A. He further submits that as the respondents have already decided to appoint the 6th respondent, they have conducted interviews only for an empty formality, and at the political pressure, appointed the 6th respondent, even though the petitioner was more meritorious than the 6th respondent.

Learned Government Pleader had contended that initially, the 6th respondent has submitted her application, but for various reasons, the application could not be entertained; that the 6th respondent has pursued her remedies to the grievance cell and at the intervention of the grievance cell, her application was entertained and it was assigned serial No.103-A; and that as the 6th respondent was qualified and is a physically handicapped person, the selection committee has given preference and selected the 6th respondent.

Learned counsel appearing for the 6th respondent contends that initially, the application of the 6th respondent was not entertained; that due to the intervention of the District

Collector, her application was entertained and it was inserted and assigned Serial No.103-A; that as the 6th respondent fulfils the eligibility criteria, the Selection Committee has rightly selected the 6th respondent and hence, no prejudice has been caused to the petitioner; and that no interference is called for from this Court, and the writ petition is liable to be dismissed.

Paragraphs 6 and 7 of the counter-affidavit would clearly disclose that both the petitioner as well as 6th respondent were found eligible and meritorious. However, as the 6th respondent was a physically handicapped, the official respondents have given preference to her.

If the stand of the official respondents is to be accepted, and if the 6th respondent is physically handicapped, then the purpose of conducting interview would be a sham. In the notification itself, it must be clearly stated that the persons, who are suffering with disability, would be given preference. Then the official respondents are right in giving preference to the physically handicapped. This criteria of dis-ability cannot be the sole ground so as to non-suit the petitioner. If the policy of the State Government is to give preference to physically handicapped persons, they are entitled to do so provided the same was reflected in the Rules and the same was reflected in the notification. In the absence of the same,

the official respondents cannot select the 6th respondent just because she is a physically handicapped person. If that was object of the official respondents in selecting the 6th respondent just because she is a physical handicapped person, the purpose of conducting interview will be defeated. Therefore, the appointment of the 6th respondent is set aside.

Accordingly, the Writ Petition is allowed. The official respondents are directed to re-consider the selection of the 6th respondent by duly considering the case of the petitioner as well as the 6th respondent, in accordance with law, based on merit. This exercise shall be completed within a period of two months. Till such time, the respondents are directed to continue the 6th respondent as Anganwadi worker. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

12th October, 2018
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