

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16345 of 2019

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Manju Kumari, aged about 52 years, female, W/o Rajkumar Prasad, Resident of Bageshwari Road, Power Ganj, S.K. Electric, Central School No.-1 ke Gate No. 2 ke Pas, Gaya, District- Gaya, Bihar- 823001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Bihar P.S.- Sachivalaya, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Old Secretariat, P.S.- Sachivalaya, Patna.
3. The Additional Secretary, General Administration Department, Government of Bihar, Old Secretariat, P.S.- Sachivalaya, Patna.
4. The Principal Secretary, Social Welfare Department, Government of Bihar, Old Secretariat, P.S.- Sachivalaya, Patna.
5. The Director, Integrated Child Development Scheme, (ICDS), Directorate, Secretariat, P.S.- Sachivalaya, Patna.
6. The District Magistrate, Gaya, P.S.- Civil Lines, Distt.- Gaya.
7. The District Program Officer, Gaya, P.S.- Civil Lines, Distt.- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Shankar Singh, Adv.
Ms. Roona, Adv.

For the Respondent/s : Mr. Asit Kumar Jha, AC to GP-2

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 27-08-2019

Heard Mr. Abhay Shankar Singh, assisted by Ms.

Roona, learned Advocates for the petitioner and Mr. Asit



Kumar Jha, learned AC to GP-2.

2. The petitioner is aggrieved by the resolution of Government dated 10.06.2010, which though has fixed the experience as an Anganbari Sahayika of 10 years for promoting/recruiting such Anganbari Sahayikas to the post of Anganbari Supervisors, but the maximum age to apply for the same has been fixed at 45 years.

3. The basic thrust of the argument of Mr. Abhay Shankar Singh, learned Advocate for the petitioner, is that it creates a different class of employees without any basis and even though it deals with the policy regarding contractual appointment of Anganbari Supervisors, fixation of such maximum age limit does not appear to be reasonable in as much as persons with more experience can serve the I.C.D.S. in a better manner. Thus, the substance of the argument of Mr. Singh is that the fixation of the maximum age limit would only prevent experienced Sahayikas from applying for the post of Supervisor. He, therefore, submits that such fixation of upper age limit would not only be destructive of the scheme of the I.C.D.S., but would also



come as an impediment for experienced persons to be considered for such post.

4. In support of the aforesaid contention, Mr. Singh, learned Advocate, has argued that it is a contractual appointment and, therefore, the Government would be well advised to extend the maximum age limit, so that persons with higher experience are in a position to contribute to the system, if they are selected.

5. The argument advanced on behalf of the petitioner may sound to be sonorous in the first blush, but if tested on the parameters on which a resolution or a decision of the Government is required to be tested, it will fail such a test. There is nothing unreasonable about fixing maximum age limit of 45 years with additional requirement of having 10 years' experience as Anganbari Sahayika.

6. The reasonableness of the aforesaid age limit when put to test, is confirmed by looking at the provision of appointment of such Anganbari Sahayikas for whom the minimum age of entering the service/contractual engagement is only 18 years. Thus, the



Government/appointing authority is the best Judge of fixing such age limit, if experience also is to be counted for.

7. There are other reasons for repelling the argument of the petitioner that more the experience, better the candidature. There is another aspect of the suitability of a candidate, viz., the energy level and 45 years of age as the maximum age limit does not appear to be unreasonable by any standard. Merely because the petitioner, in this instance, has not been able to come within the prescribed age limit, the resolution cannot be said to be unreasonable.

8. For the aforesaid reasons, this Court finds no good reason to entertain this writ petition and, therefore, the same is dismissed.

9. However, this Court will not eschew from giving the liberty to the petitioner to approach the concerned authorities, if so advised, in case there are no suitable candidates and posts remain vacant, to consider her case, especially in the light of the experience which she has gained as Anganbari Sahayika. Should such a petition/representation in such an event be filed, it would be



considered on its own merits without being prejudiced by the fact that the present petition has not been entertained by this Court. The concerned authorities, while considering such petition/representation, would also consider that because of the delay in concluding the process of appointment, the petitioner has lost on her chances of being included in the zone of consideration.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.08.2019
Transmission Date	N/A

