

IN THE HIGH COURT AT CALCUTTA

Appellate Side

Present:

The Hon'ble Justice Krishna Rao

WPA 11253 of 2012

Laila Arjuman Banu

Versus

The State of West Bengal & Ors.

For the petitioner : Mr. Jayanta Samanta
Md. Ashraful Haque
..... Advocates

For the State : Mr. Raja Saha
Ms. Tanushri Chandra
.....Advocates

For the Respondent No. 2 : Mr. Maidul Islam Kayal
Ms. Mousumi Mitra
.....Advocates

Heard on : 02.12.2021

Judgment on : 09.12.2021

Krishna Rao, J.: The petitioner claims that the petitioner passed High Madrasah Examination in the year 1995 from West Bengal Board Education

and obtained 444 marks out of 900 and she passed Higher Secondary Examination in the year 1997 and obtained 379 marks out of 1000. The petitioner registered her name in the employment exchange office, Berhampore, Murshidabad on 28.11.1995. Since after the marriage the petitioner is residing with her husband at Benadaha within Madda Gram Panchayat under Beldanga – I Panchayat Samiti in the District of Murshidabad permanently.

The Managing Committee of Benadaha Paschimpara S.S.K. decided to engage two (2) Sahayikas in the said S.S.K. and accordingly vide notice dt.30.06.2009, applications were invited for the said post and the last date of submission of the application was fixed on 11.07.2009.

As per the notice the petitioner had applied for the said post. The Managing Committee of Benadaha Paschimpara S.S.K. conducted interview, in which 06 candidates were participated including the petitioner. After the interview name of one Shamima Khatun was recommended as 3rd Sahayika and the name of the petitioner was recommended as 4th Sahayika of the said SSK.

The Shiksha,Sanskriti,Tathya –O-Kria Sthayee Samity of Beldanga-I Panchayat Samity being the competent authority, in its meeting dt. 25.11.2009 approved the proposal of Benadaha Paschimpara S.S.K. for engagement of the petitioner and Shamima Khatun and requested the Block Development Officer to forward the same to the District Authority for approval and accordingly the BDO has forwarded the same.

Subsequently the petitioner came to know that the Block Development Officer has not approved the proposal for engagement of the petitioner as 4th

Sahayika though the name of Shamima Khatun has approved as 3rd Sahayika. The petitioner was able to get a Xerox copy of the memo dt.26.04.2010 issued by the District Nodal Officer S.S.K. Murshidabad wherein the District Nodal Officer in clause no.5 and 6 noted as follows:

Sl. No.	Name	Post	Name of SSK	Date of Birth	Remarks
5.	Samima Khatun	3 rd Sahayika	Benadaha Paschim SSK	25.07.1969	Total enrolment as per attendance register is 105 and on the day of visit 72 learners were present hence as per Govt. Guideline the SSK is entitled to get only 3 rd Sahayika. Hence the candidature of Samima Khatun is considered and released honorarium from the date of approval from the Panchayat Samity.
6.	Laila Arjunan Banu	4 th Sahayika		30.01.1980	

As per School Report Card of 2009-2010 total number of enrolled students was 125 in Benedhana paschimpara SSK and the same was also certified by the Block Development Officer vide its letter dt. 04.05.2011

addressed to the Nodal Officer, SSK & MSK, Murshidabad Zilla Parishad. As the petitioner was not getting any response from the authority concern, the petitioner had preferred a writ petition before this Court being WP No. 19788(w) of 2011 and the same was disposed of on 24.01.2012 by directing the respondent no. 3 to take necessary action on the communication dt. 04.05.2011 within four weeks from the date of receipt of the order and to communicate his decision to the authorities concern and also to the petitioner within a week thereafter.

Pursuant to the order passed by this Court the respondent no. 3 had started proceedings and the petitioner had also appeared in the said proceeding. The said proceeding was lastly taken up for hearing on 17.04.2012 wherein the petitioner had also appeared. As per record the Secretary, Managing Committee and First Sahayika of Benadaha Paschimpara SSK has submitted as follows:

“According to the deposition of the Secretary, Managing Committee and the First Sahayika of Benadaha Paschimpara SSK.

1. No advertisement was made on behalf of the managing Committee before taking resolution on behalf of the petitioner. It is prepared later on without publication.
2. Before taking resolution for engagement of Sahayika they did not take any permission from the Beldanga- I Panchayat Samity. [G.O. No. 5087(36) –PN/O/I/O-6/2003 Dt. 27.10.2006].
3. Though the names of six (6) applicants have been mentioned in the resolution dt. 14.07.09 but according to their deposition no body

applied for the post of Sahaika and they fails to produce copy of the applications of the applicants.

4. The date of birth of the petitioner is 30.01.80 which is below 40 years. But they did not take prior approval for engagement of underage Sahayika from the Beldanga-I Panchayet Samity. [G.O. NO. 3721 (19)-PN/O/I/3S-340/04 Dt. 08.11.2004].
5. No panel for the said post was prepared. The managing committee resolved the name of the petitioner to the post of Sahayika suomoto.
6. The First Sahayika directly submitted the resolution of the managing committee dt. 14.07.09 before the Karmadhaksha, Siksha Sanskrity Tathya- O- Krira Sthayee Samity. Beldanga- I Panchayat Samity.

The District Nodal Officer while considering the case of the petitioner has come to the conclusion that the Managing Committee has not followed the procedure for selection of Sahayika as laid down in GO No. 3721(19)-PN/O/1/3S-340/04 dt.08.11.04 and GO No.50587(36)-PN/O/1/0-6/2003 dt.27.10.2006. The District Nodal had also held that the total strength of the students as per attendance register is 126 but on verification of admission register it was found that the name of 18 students mentioned in the attendance register are not in the admission register and accordingly actual roll of strength of Benadaha Paschimpara SSK was 108 in the academic sessions 2009 -10. As per Government Order dt.19.02.2004 and 10.04.2004 for engagement of 4th Sahayika the total strength of 120 students is required and thus the request of the petitioner for engagement as 4th Sahayika was rejected.

The Counsel for the petitioner contended that the District Nodal Officer had submitted incorrect report dt. 24/04/2010 stating that the total

enrolments as per the attendance register is 105 and on the date of visit 72 learners were present. The Ld. Counsel for the petitioner has further contended that as per the school report card the total enrolment of the learners was 125 and the same was also certified by the Block Development Officer vide letter dt. 04.05.2012. The Ld. Counsel for the petitioner submitted that the District Nodal Officer without considering the said aspects had rejected the claim of the petitioner.

Per contra, the Counsel for the respondent had submitted that during the hearing, the District Nodal Officer has called for his report from the Secretary of the Managing Committee wherein it is categorically mentioned that no advertisement was made on behalf of the Managing Committee and the before taking resolution for engagement of Sahayika they didn't take any permission from the concerned authority. The Secretary had further stated that though name of these applicants have mentioned in the resolution dt. 04.04.2009 but according to their deposition nobody applied for the said post and they failed to produced any copy of applications. The Secretary had further stated that no panel for the said post was prepared.

The District Nodal Officer had also verified the attendance register and admission register for the academic session 2009-2010 and on verification, it was found that as per the attendance register the total numbers of the students was 126 but as per the admission register it is found that name of 18 students mentioned in the attendance register is not available in the said register and as per admission register actual roll strength of the Benadaha Paschimpara SSK was 108 in the academic session 2009-2010.

Considering the said aspects the District Nodal Officer rejected the claim of the petitioner.

Considered the submissions made by the parties and documents available on record and after going through the records it is found that 4th Sahayika can only be appointed if the strength of learners is more than 120 but as per the statement of the Secretary Managing Committee as well as, as per the attendance register the total strength of Benadaha Paschimpara SSK was 108 in the academic session 2009-2010. The petitioner has relied upon the school report card 2009-2010 wherein the strength of the learners is shown as 125 and the certificate issued by the Block Development Officer dt. 04.05.2011 was shown as 125 but when the District Nodal Officer had verified the facts from all records including the admission register, the District Nodal Officer has found that the total strength of Benadaha Paschimpara SSK was 108 in the academic session 2009-2010 and as per the GO dt.19.02.2004 and 10.09.2004 the total strength was not in conformity with the with the number of students i.e. 120 students which is required for engagement of 4th Sahayika and thus this Court of the view that there is no illegality in the decision taken by the District Nodal Officer dt. 17.04.2012.

In the aforesaid circumstances, the writ petition filed by the petitioner is devoid any merit and the writ petition is required to be dismissed and accordingly, WPA NO. 11253 is dismissed. No order as to cost.

(Krishna Rao, J.)