

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4621 of 2009**

Smt. Uma Bai Hemlal Chouhan, (also known as Uma Bai Chouhan also Uma Tandi), W/o Shri Hemlal Chouhan, Aged about 35 years, R/o Village Bonda, Tahsil Baramkela, Distt. Raigarh, Chhattisgarh.

---Petitioner**Versus**

1. Smt. Shakara Bai Arakshi Ram Ratre W/o Arakshi Ram Ratre, R/o Village Bonda, Tahsil Baramkela, Distt. Raigarh, Chhattisgarh.
2. The Janpad Panchayat – Baramkela, through its Chief Executive Officer, Distt. Raigarh, Chhattisgarh.
3. The Project Officer, Ekikrit Bal Vikas Pariyojana, Baramkela, Distt. Raigarh, Chhattisgarh.
4. The Gram Panchayat Village Bonda, through its Panchayat Secretary, Village Bonda, Tahsil Baramkela, Distt. Raigarh, Chhattisgarh.
5. State of Chhattisgarh, through the Secretary, Department of Panchayat, D.K.S. Bhawan, Raipur, Chhattisgarh.
6. The Director, Panchayat, Chhattisgarh, Raipur, Chhattisgarh.
7. The Collector, Raigarh, Chhattisgarh.

--- Respondents

For Petitioner	:-	Mr. M.P.S. Bhatia, Advocate
For Respondent 1	:-	Mr. N. Naha Roy, Advocate
For Respondents 2 & 4	:-	Mr. Yashwant Singh Thakur, Advocate
For State	:-	Mr. Animesh Tiwari, Dy. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board (Through Video Conferencing)

17/06/2021

1. Petitioner was appointed on the post of 'Anganbadi Karyakarta' on 18/01/2007 which was questioned by respondent No. 1 in an appeal before the Collector, who by its order dated 13/10/2008, allowed the appeal preferred by respondent No. 1 and set aside the appointment of the petitioner, which was challenged by the petitioner by way of an appeal before the Director, Panchayat, but the appeal of the petitioner also stood dismissed by order dated 03/02/2009 (Annexure P/1) against which the petitioner has preferred this writ petition.

2. Mr. M.P.S. Bhatia, learned counsel for the petitioner, would submit that both the authorities i.e. Collector as well as the Director, Panchayat have erred in holding that petitioner's elder brother-in-law namely Ghurau Ram Chouhan was a

Government servant on the date of petitioner's appointment on the post of 'Anganbadi Karyakarta' and they have further erred in holding that petitioner's elder brother-in-law would come within the purview of the words 'sage sambandhi' as mentioned in the guidelines issued by the State Government on 06/01/2000. He would also submit that the Collector as well as the Director, Panchayat have also erred in holding that one Dhani Ram, son of Barjo Chouhan, is panch in the Gram Panchayat and he is a relative of the petitioner, therefore, the orders passed by both the authorities deserve to be set aside.

3. Mr. N. Naha Roy, learned counsel for respondent No. 1, Mr. Yashwant Thakur, learned counsel for respondents No. 2 and 4 and Mr. Animesh Tiwari, learned Deputy Advocate General appearing on behalf of the State, would support the orders passed by the Collector as well as by the Director, Panchayat.

4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and went through the records with utmost circumspection.

5. Instruction No. 3 mentioned in Paragraph 5 of the Circular dated 06/01/2000 (Annexure P/7) issued by the State Government, being relevant, is quoted below :-

“(3). कोई सरकारी कर्मचारी अथवा पंचायती राज संस्थाओं/नगरीय निकाय के निर्वाचित अथवा मनीनित सदस्य अथवा उनके सगे संबंधी को आंगनवाड़ी कार्यकर्ता नियुक्त नहीं किया जा सकेगा |”

6. A careful perusal of the aforesaid instruction would show that if a person's 'sage sambandhi' (relatives) are Government servants, then this person could not be appointed on the post of 'Anganbadi Karyakarta'. The Collector, in its order dated 13/10/2008, has held in his concluding finding that Ghurau Ram Chouhan, who is petitioner's elder brother-in-law, was a Government servant on the date of appointment of the petitioner and one Dhani Ram, son of Barjo Chouhan, who is a panch in the Gram Panchayat, is also a relative of the petitioner, therefore, petitioner is disqualified from appointment on the post of 'Anganbadi Karyakarta' as per instruction 3 mentioned in the Circular dated 06/01/2000 (Annexure P/7) issued by the State Government.

7. In the appeal preferred by the petitioner against the order passed by the Collector, the Director, Panchayat also held that petitioner's elder brother-in-law Ghurau Ram Chouhan was appointed as a Fourth Class employee on a pay scale of Rs. 2550-3200 on 09/09/2008 and thereafter, dismissed the appeal of the petitioner holding that the order passed by the Collector is in accordance with law.

8. From a careful perusal of the record, it is quite evident that both the authorities i.e. the Collector as well as the Director, Panchayat have not recorded a clear-cut finding as to whether petitioner's elder brother-in-law namely Ghurau Ram Chouhan would fall within the meaning of the words 'sage sambandhi' as mentioned in instruction No. 3 of the circular dated 06/01/2000 issued by the State Government and no such finding has been recorded as to whether the said brother-in-law of the petitioner was a Government servant on the date of appointment of the petitioner i.e. on 18/01/2007. The Director, Panchayat has recorded in his order that petitioner's brother-in-law was appointed on 09/09/2008 which is subsequent to the date of petitioner's appointment on 18/01/2007. Furthermore, no evidence on record is available to

hold that Dhani Ram, son of Barjo Chouhan, is in any way a relative of the petitioner and whether he too would fall within the meaning of 'sage sambandhi' as it is seriously disputed by the petitioner by filing document in her support stating that Dhani Ram is not the son of her brother-in-law. AS such, very contradictory and incorrect findings have been recorded by both the authorities for disqualification of the petitioner from appointment on the post of 'Anganbadi Karyakarta'. In support of the said plea, petitioner has filed further documents before this Court and it is not clear as to whether these documents were placed on record before the Collector or before the Director, Panchayat, therefore, it would be expedient to remit the matter to the Collector to consider the following points and decide petitioner's case afresh :-

i) Whether petitioner's elder brother-in-law Ghurau Ram Chouhan would come within the meaning of 'sage sambandhi' as mentioned in instruction No. 3 of the Circular dated 06/01/2000 (Annexure P/7) issued by the State Government ?

ii) Whether the said brother-in-law of the petitioner was in regular Government service on the

date of appointment of the petitioner on 18/01/2007 ?

iii) Whether Dhani Ram, son of Barjo Ram, is in any way related to petitioner and if yes, would he too fall within the meaning of 'sage sambandhi' ?

9. Accordingly, the impugned orders passed by the Collector as well as by the Director, Panchayat are hereby set aside and the matter is remitted to the Collector to hear the parties by allowing them to file additional documents and decide it within one month from the date of receipt of a copy of this order after hearing the parties.

10. With the aforesaid direction, the instant writ petition stands disposed of. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet