

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4701 OF 2018

Pushpa D/o. Ganeshrao Sartape,
Age 37 years, Occu. Aanganwadi Karyakarti,
R/o. Golegaon Camp Aundha (Nagnath) Hingoli,
Taluka Aundha, District Hingoli.

.. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary, Department of
Rural Development and Water Conversation,
Mantralaya, Mumbai – 32.
2. The Commissioner
For persons with Disabilities Office
At Commissionerate for persons with Disabilities
3, Church Road Pune, Taluka and District Pune.
3. The Member Secretary, District Selection
Committee cum the Deputy Chief Executive Officer,
Zilla Parishad (Hingoli),
(Women and Child Development)
4. The District Collector cum President
District Selection Committee,
Zilla Parishad, Hingoli
5. The Member,
District Selection Committee,
Chief Executive Officer,
Zilla Parishad, Hingoli.
6. The District Civil Surgeon,
Hingoli, General Hospital Hingoli,
Taluka and District Hingoli
7. Godawari D/o. Purbhaji Jadhav,
Age 43 years, Occu. Aanganwadi Supervisor,
R/o. Takalkhopa, Taluka Aundha,
District Hingoli.

.. Respondents

Ms. K.S. Bhale, Advocate for petitioner

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Mr. Yogesh B. Bolkar, Advocate holding for Mrs. P. V. Diggikar, Advocate for the respondents no. 3 and 5

Mrs. V. S. Choudhari, Assistant Government Pleader for Respondents no.1, 2 and 6

Mr. S. K. Adkine, Advocate for Respondent no. 7

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 20TH DECEMBER 2021

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally, with the consent of the learned counsel for the parties.

2. This petition is directed against the order dated 13-04-2018 passed by the respondent no. 2 – The Commissioner for Persons with Disabilities, thereby dismissing the appeal filed by the petitioner, challenging the selection of the respondent no. 7.

3. An advertisement (Exhibit – A) was issued for filling up four posts of Supervisor from Anganwadi Karyakarti / Sevika. One post out of the four posts, was reserved for persons with physical disabilities. Pursuant to the advertisement, the petitioner, the respondent no. 7 and others applied for the post reserved for physically disabled category. In the selection process, the respondent no. 7 was selected for the post of the Supervisor. The petitioner is kept at serial no. 3 in the waiting list. The petitioner challenged the selection of the respondent no. 7 by filing

appeal before the respondent no. 2, contending that since the respondent no. 7 is having 69% disability, she is not eligible to be considered for appointment, as the advertisement has prescribed that the candidate, who has 40-60% disability shall be eligible to apply. By the impugned order dated 13-04-2018, the appeal filed by the petitioner was rejected. Hence, the present petition.

4. Heard the learned Advocate for the petitioner, learned Assistant Government Pleader and the learned Advocates for respondents no. 3, 5 and 7.

5. The record indicates that the respondent no. 7 is having 69% disability to the lower limb. Her one leg is affected. In the advertisement, it is specifically mentioned "for the post to be filled up from physically disabled category, 40-60% disability is required. Low vision, Partially Deaf (P.D.) and One Leg Affected (OL) / One Arm Affected (OA)" shall be eligible. In view of the above, the respondent no. 7 was eligible to be considered for selection.

6. Respondents no. 3 and 5 have filed affidavit-in-reply wherein following statements are made :-

"11. I say and submit that, the Government Resolution dated 29/11/2007 stipulates the disability for appointment of disable person on the post of Supervisor. As per Schedule – 'A' (Sr.No.27), the disable persons having disability such as; Low Vision, PD, OL (One Leg Affected / OA (One Arm

Affected) are held to be eligible. It is pertinent to note here that, for the Low Vision, the percentage is prescribed as 40% to 60%, however, for other type of disabilities, the minimum percentage of disability is prescribed as 40% and maximum percentage of disability is not prescribed. As per the Disability Certificate issued in favour of respondent No. 7, it is crystal clear that, her type of disability is; Physical impairment, Affected Part of Body – Rt. L/L, Diagnosis – PPRP RT Lower Limb, Disability 69% which means, the respondent No. 7 is having disability of OL (One Leg Affected) and for this disability, no maximum percentage of disability is prescribed. Accordingly, there is no irregularity or illegality in issuing the appointment order in favour of the respondent No. 7 on the post of Supervisor. The Government Resolution dated 29/11/2007 annexed by the petitioner at Exhibit – 'X' is incomplete. The petitioner has not annexed the Schedule of the said Government Resolution. Hereto annexed and marked as **EXHIBIT – “AR-4”** is the copy of Government Resolution dated 29/11/2007 alongwith the Schedule-'A'.”

7. Perusal of the Government resolution dated 29-11-2007 makes it clear that there is no upper limit of disability prescribed in the said Government resolution. Entry no. 27 of Schedule 'A' of the Government resolution dated 29-11-2007 mentions that OL/OA is eligible. Since the respondent no. 7 is having disability of OL (One Leg Affected), she was rightly considered during the selection process.

8. In the selection process, the respondent no. 7 has secured 68 marks whereas the petitioner has secured 50.80 % marks. The respondent no. 7 having secured highest marks, was selected and the petitioner on the basis of marks secured by her, is placed at serial no. 3 in the waiting list.

9. There is no illegality or irregularity in the entire selection process. The challenge raised by the petitioner is misconceived and is liable to be rejected at the threshold. The respondent no. 2 – Commissioner has rightly dismissed the appeal filed by the petitioner.

10. For the afore-stated reasons, there is no merit in the challenge raised by the petitioner. No case is made out by the petitioner to interfere in the impugned order in the extra-ordinary writ jurisdiction. The writ petition being devoid of merits, is dismissed. Rule stands discharged. No costs.

[NITIN B. SURYAWANSHI, J .]

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