

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

LPA-543-2021 (O&M)
Date of decision: 28.07.2021.

Soma Rani

... Appellant.

versus

State of Punjab and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. Ranbir Singh Sekhon, Advocate, for the appellant.

Ms. Monica Chhibber Sharma, DAG, Punjab.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of COVID-19 Pandemic.

The appellant has preferred this appeal against the order dated 03.12.2020 passed by the learned Single Judge whereby CWP No.20630 of 2020 (O&M) filed by the appellant was dismissed.

The facts and circumstances giving rise to this case are that the applications were invited in the year 2017 for filling up the vacancy of Anganwari Worker in Anganwari Centre, Village Kot Ahmed Dhandi, District Ferozepur. The appellant and many other candidates applied for the said post and they appeared in interview on 04.01.2018. One Amandeep Kaur claiming herself to be physically handicapped, was selected and appointed as Anganwari Worker. The appellant and other unsuccessful candidates challenged her appointment on the ground that the disability

certificate of Amandeep Kaur was fake. The department conducted inquiry and passed order dated 24.08.2020 (Annexure P-7), whereby Amandeep Kaur was removed from the post. The appellant has claimed her right against the said vacant post, she being physically handicapped. Accordingly, the writ petition was filed.

The learned Single Judge heard the counsel for the petitioner (appellant herein) and dismissed the writ petition with the following observations:-

“The petitioner does not have any exclusive right to be appointed on the post of Anganwari Worker pursuant to the vacancy having arisen upon termination of service of Amandeep Kaur.

Prayer made in the instant writ petition is declined.

Petition dismissed.”

Being dissatisfied, the appellant has filed the present appeal. We have heard the counsel for the appellant and the State counsel, who was having advance copy of the petition.

The counsel for the appellant while assailing the impugned order, contended that the appellant belongs to scheduled caste category and is also physically handicapped. It is further contended that the appellant has been suffering mental agony without being at fault. She is next in the merit list in the category in which Amandeep Kaur was selected. The learned counsel further submitted that the disability certificate of Amandeep Kaur was found fake and consequently, she was removed from the post of Anganwari Worker. The appellant being the next in the selection list

(Annexure A-1), is entitled to get the post vacated by Amandeep Kaur. The counsel for the appellant further contended that this being the position, the learned Single Judge wrongly observed that it is obligatory for the respondents/authorities to proceed further in accordance with law and to fill-up the post by following a fair and transparent process, by inviting applications from all eligible candidates and a selection process must thereafter ensue to pick up the best candidate. The counsel for the appellant while concluding his arguments contended that the impugned order being not legally sustainable is liable to be set aside.

The learned State counsel while opposing the claim of the appellant contended that there is no illegality in the impugned order. The learned Single Judge rightly held that the petitioner (appellant herein) does not have any exclusive right to be appointed on the post of Anganwari worker against vacancy having arising due to termination of Amandeep Kaur. The learned State counsel further contended that the appeal being without merits, deserves to be dismissed.

We have considered the submissions addressed by counsel for the parties.

The appellant is claiming her right over the post of Anganwari worker which was vacated by Amandeep Kaur who was removed from service vide order dated 24.8.2020 (Annexure P-7). The appellant is claiming the said post on the ground that she is next to Amandeep Kaur in the select list belonging to the category in which Amandeep Kaur was selected.

The copy of the select list is Annexure A-1. As per the said select list Amandeep Kaur secured the highest marks in SC (handicapped) category and accordingly she was offered post of Anganwari worker. Doubt was raised against her disability certificate. On this, the department conducted inquiry but Amandeep Kaur failed to appear before the Medical board for assessment of her physical disability. Consequently, she was removed from the job vide order (Annexure P-7). As per select list (Annexure A-1), appellant is at No.2 position in the same category in which Amandeep Kaur was selected and thus, claimed appointment. In this regard the appellant moved application dated 28.9.2020 (Annexure P-8), but the concerned authorities failed to take any action. Then she filed writ petition on 23.11.2020 but the same was dismissed by the learned Single Judge vide impugned order dated 3.12.2020.

Admittedly mere inclusion of name of candidate in select list does not confer any vested right to get an order of appointment. It is also equally true that once a post duly notified has not been consumed, then a candidate next in order of merit as determined in a regular process of selection, if available has to be invited for filling up such vacancy.

In the present case there was only one post of Anganwari worker for which Amandeep Kaur was selected and she joined the said post, however later on she was found ineligible and was removed from the service. Immediately thereafter, the appellant staked her claim on the said post by moving application (Annexure P-8). It being so, we are of the view that the next candidate in merit be considered for appointment. As per

Annexure A-1, the next candidate in the category of SC (handicapped) is appellant who secured 14 marks.

In the light of the above the present LPA is allowed and the order passed by the learned Single Judge is hereby set aside with a direction to the respondents to consider the appellant (next candidate in merit as per Annexure A-1)) for appointment to the post of Anganwari worker which was vacated by Amandeep Kaur. The said offer of appointment shall be subject to verification of the eligibility certificates of the candidate.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

28.07.2021.

Sanjeev/Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No