

09.11.2022
ML-87
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 1096 of 2022

Tahmina Khatun (Bibi)
Vs.
The State of West Bengal & Ors.

Mr. Lal Ratan Mondal
....for the petitioner.

Mr. Rajat Datta
.....for the State.

Despite service upon the added respondent no.9, no one represents the respondent no.9 in Court today.

The petitioner's grievances that despite being eligible for the post of Accredited Social Health Activist (in short, "ASHA") for the village Char Sofi Hazi Para under Charlabongara Sub-Centre of Hanumantnagar Gram Panchayat under Bhagwangola-I Development Block, Murshidabad, she was not appointed. A candidate, who was found not to be eligible due to lack of proper documents, being the respondent no.9 herein, was appointed in place and stead of the writ petitioner.

By an order dated September 18, 2019 passed by a coordinate Bench in WP 7798 (W) of 2018, the Sub-Divisional Officer Lalbagh, Murshidabad was directed to take steps for issuing a letter engagement

in favour of the petitioner within 7 days, if the records of the petitioner was found to be in order. Such order was not challenged by the respondent authorities. Instead of engaging the petitioner upon verification of the documents that were required to be produced by her by a letter dated December 30, 2019 issued by the Sub-Divisional Officer, the said officer misdirected himself to take a decision in the case on the issue of engagement of the petitioner. He was of the opinion that since other writ petitions were pending, the petitioner could not be considered for appointment for the seat-in-question. The Sub-Divisional Officer, Lalbagh, Murshidabad did not have any authority to come to the said findings in the teeth of the order passed the coordinate Bench on September 18, 2019.

Mr. Datta, learned counsel, appearing on behalf of the State submits that the respondent no.9 has been working since long and she had subsequently produced relevant documents which made her eligible for appointment as an ASHA karmee.

Having considered the rival submissions of the parties and the materials placed on record, this Court directs the respondent no.4/Member Secretary, ASHA Selection Committee & Sub-Divisional Officer, Lalbagh, Murshidabad to immediately issue a

certificate of engagement in favour of the petitioner within 14 days from the date of this order. The order passed by the coordinate Bench of this Hon'ble Court on September 18, 2019 has to be immediately complied with..

Needless to mention that in case there is only one post for ASHA karmee in the said village, the petitioner will be eligible for the same and not the private respondent no.9.

This Court does not appreciate the fact that an ineligible candidate was given appointment in place and stead of an eligible candidate who was selected after duly appearing in the entire selection process.

With the directions aforesaid, the writ petition, being **WPA 1096 of 2022**, is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)