

AFR

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.64 of 2013

Bilasini Behera

....

Appellant

-versus-

***ADM-cum-Appellate Authority,
Nuapada and others***

....

Respondents

Advocates appeared in this case:

For the Appellant

:

Mr. P.K. Sahoo, Advocate

For the Respondents

:

Mr. Ishwar Mohanty
Addl. Standing Counsel
(For the State)

Mr. S.K. Bhanjadeo,
Advocate
(For Respondent No.3)

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

JUDGMENT

15.09.2022

Dr. S. Muralidhar, CJ.

1. The Appellant having unsuccessfully challenged an order dated 31st March 2011, passed by the Additional District Magistrate-cum-Appellate Authority, Nuapada (ADM) in Appeal Case No.11 of 2010 whereby her engagement as Anganwadi Worker (AWW) in the Runibasa-II Anganwadi Centre (AWC) was set aside, with the dismissal of W.P.(C) No.10723 of 2011 by the learned Single

Judge by the impugned order dated 6th March 2013, has approached this Court with the present appeal.

2. The background facts are that the Child Development Project Officer (CDPO), Boden in the District of Nuapada (Respondent No.2) issued an advertisement dated 5th December 2009 for engagement of an AWW in respect of the Runibasa AWC. The present Appellant and five others including Respondent No.3-Geetanjali Behera applied for the said post. As per the selection process, the present Appellant-Bilasini Behera and Respondent No.3-Geetanjali Behera came within the zone of consideration since both belonged to the AWC area. According to the Appellant, since she secured more marks than Respondent No.3, she was selected.

3. Challenging the selection of the present Appellant, Respondent No.3 filed an appeal before the ADM. The First Appellate Authority, on perusal of the records, found that whereas the Appellant had scored 49 marks, Respondent No.3 had scored 50. In the remarks column, it was mentioned against the name of the Appellant, "out of AWC area". The ADM, therefore, set aside the engagement of the present Appellant as AWW and a direction was given to the CDPO to issue an engagement order in favour of Respondent No.3 as the AWW for Runibasa-II AWC.

4. Challenging the above order of the ADM, the Appellant filed W.P.(C) No.10723 of 2011. In response to the petition, it was contended by both the ADM as well as the CDPO that only the

Appellant and Respondent No.3 belonged to the AWC area. The said writ petition came to be dismissed by the learned Single Judge, who noted that the ADM had noted that the survey report prepared and which was relied upon by the CDPO to determine the residence of the Applicants was not prepared as per the guidelines of the Government issued in the Women & Child Development (W & CD) Department, Orissa or even approved by the CDPO.

5. The learned Single Judge noted that since the survey report was not accepted and on that basis, the present Appellant had been selected, the said selection was rightly set aside by the ADM and a direction had been correctly issued to the CDPO to issue an engagement order in favour of Respondent No.3. The learned Single Judge, accordingly, dismissed the writ petition by the impugned order dated 6th March 2013 and thereby also vacating the status quo order in favour of the present Appellant passed on 21st April, 2011.

6. Mr. P.K. Sahoo, learned counsel appearing for the Appellant urged that since Respondent No.3 was not residing in the AWC area, her candidature was rightly rejected. It was submitted that the guidelines dated 2nd May 2007 as amended on 9th April 2010 makes it imperative for the candidate to belong to the AWC area. According to the Appellant, the guidelines of the W & CD Department do not require approval by the CDPO.

7. On the other hand, it was contended on behalf of Respondent No.3 that she was a permanent resident of Mouza-Damjhar which is within the jurisdiction of Runibasa-II AWC. It was pointed out that the main village Runibasa consisted of Runibasa, Bastipada, Nuapada, Harijanpada, Mondobirli, Badhiamunda and Bahalmunda. There was already an AWC at Runibasa-I and in Nuapada-II. Bastipada came under Ward No.5, which was the Runibasa-I AWC area and Mondobirli comes under Ward No.6, which was in Runibasa-II AWC area. It was pointed out that the present Appellant in her application form mentioned that she belonged to Bastipada in village Runibasa which actually comes under Ward No.5 and therefore was under Runibasa-I AWC area.

8. It is seen from the final selection list which is in a tabular form that the present Appellant Bilasini Behera appears to be shown as residing at Runibasa whereas Respondent No.3 is shown as residing at Mondobirli. There appears to be a distinction between Runibasa Nuapada-II AWC area at Ward No.6 as pointed out by Respondent No.3 and Bastipada which was under Ward No.5 and therefore falls under Runibasa-I AWC area. With Respondent No.3 belonging to Mondobirli and having already applied for the Nuapada Runibasa-II AWC area, it is clear that the Appellant did not belong to the AWC area specific to Runibasa-II AWC.

9. There have been concurrent findings of fact both by the Appellate Authority as well as the learned Single Judge on the above aspects and on the basis of which a direction has been

issued to the CDPO to issue the engagement letter in favour of Respondent No.3.

10. The Court is unable to find any error having been committed either by the Appellate Authority i.e., the ADM or the learned Single Judge in deciding against the Appellant. Consequently, there is no merit in the present writ appeal and it is dismissed as such.



S. K. Guin/PA