

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 391 of 2016

Rinabala Pradhan @ Reena Bala Pradhan ***Appellant***

Mr. K.K. Swain, Advocate

-versus-

State of Odisha and others ***Respondents***

Mr. M.K. Khuntia

Additional Government Advocate for State

M/s. H.M. Dhal, Advocate & Associates

CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH

ORDER
20.10.2022

Order No.

- 04.
1. The challenge in the present writ appeal is to the judgment dated 27th July 2016, passed by the learned Single Judge dismissing the W.P.(C) No.12589 of 2016, filed by the present Appellant, challenging an order dated 5th July 2016, passed by the Additional District Magistrate (ADM), Balasore allowing Anganwadi Appeal Case No.4 of 2015 filed by Respondent No.5.
 2. The background facts are that an advertisement was issued on 18th July, 2014 inviting applications for the post of Anganwadi Worker (AWW) for the Mangarajpur Anganwadi Centre (AWC). Both the Appellant and Respondent No.5 along with others applied for the post. The Appellant was selected.

3. Challenging the appointment of the Appellant, Respondent No.5 filed Anganwadi Appeal Case No.4 of 2015 which came to be allowed by the ADM by the order dated 5th July, 2017 on the ground that the requisite experience rendered by the Appellant either as a Helper or as Organizer did not satisfy the requirement of five years and, therefore, her selection was not proper.

4. Aggrieved by the said order of the ADM, the Appellant filed the aforementioned writ petition which came to be dismissed by the impugned order of the learned Single Judge. The contention of the Appellant that the relevant clause in the guideline should be interpreted as permitting a person who has worked altogether for a period of five years as Organizer or Helper to be sufficient compliance with the requirement.

5. The learned Single Judge noted that as a Helper, the Appellant had served slightly less than five years taking into account the period of around four months when she went on leave without sanction. As an Organizer, she had worked for slightly above three years and this, therefore, also being satisfied the requirement of completion of having five years of experience.

6. Mr. K.K. Swain, learned counsel appearing for the Appellant advanced two submissions. First was that the Appellant's experience both as Organizer and Helper should had to be collectively considered and if so considered, she would satisfy the requirement of five years of experience. Secondly, he submitted that the period during which the Appellant proceeded on leave, as a

Helper, should not be deducted from the total years of experience because the engagement was contractual and an application had been submitted.

7. The Court is unable to agree with either of the submissions. As far as the first stipulation was concerned, the relevant clause in the guideline reads as under:

“4) Anganwadi Helper and Organizer if having the requisite qualification and are found to be suitable shall be selected as Anganwadi Worker provided they have worked for more than five years.”

8. The intention behind the above Clause is that five years experience should be in the post of either Helper or Organizer since both are distinct and different posts. The Clause was not obviously inserted keeping in mind that the same person could serve for some years as Helper and for the remaining years as Organizer. The interpretation placed by the ADM on the said Clause cannot be said to be erroneous. It has been rightly affirmed by the learned Single Judge.

9. As far as the second issue is concerned, admittedly, the Appellant proceeded on leave for about four months without the leave being sanctioned. The mere submission of a leave application would not regularize such leave. Since the Appellant does not satisfy the requirement of five years of experience as Helper, if the leave period is deducted, no fault can be found in the order of the ADM cancelling her appointment as AWW.

10. The Court is unable to find any error having been committed either by the ADM or by the learned Single Judge, which calls for interference.

11. Accordingly, the writ appeal is dismissed.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S. Behera

