

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

CWP NO.7175-2016

DATE OF DECISION: 27.04.2022

Neelam Devi

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. R.K.Chandana, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Ravi Dutt Sharma, Advocate for respondent No.5.

ARUN MONGA, J. (ORAL)

Petitioner herein an aspirant of working as Anganwadi Worker is aggrieved against rejection of her candidature in BC category to which she belongs. The grievance of the petitioner is that her application for appointment was rejected allegedly to make appointment of respondent No.5.

2. Succinct facts first. Petitioner being eligible and having the requisite qualification submitted her application under BC category for the post of Anganwari Worker. Respondent No.5 also applied for the said post under BC category. Petitioner secured 61 marks and respondent No.5 secured 54 marks. The candidature of the petitioner was considered under General category whereas she had applied under BC category. Respondent No.5 was appointed as Anganwari worker ignoring the claim of the petitioner. Thereafter, petitioner made complaints and enquiry was got conducted and inquiry officer had found certain irregularities and respondent No.2 wrote letter to respondent No.3 to take necessary steps

to terminate the services of respondent No.5. Respondent No.5 has not been removed from service till date. Hence, the instant petition.

3. In the return filed to the petition, following stand has been taken by respondents No.3 and 4 in para No.2 of the preliminary submissions:

“...However further it is submitted that the selection of the respondent No.5 as Anganwari worker was made under grave irregularities. In fact the petitioner i.e. Neelam wife of Harvinder Singh, resident of village Balbehra, Tehsil Guhla has also applied for her selection/appointment on the post of anganwari worker in BC category but she was considered in General Category and the respondent No.5 was selected on the post of Anganwari worker. The petitioner made complaint against the selection of respondent No.5 on the post of Anganwari worker. The matter was enquired by the department and during enquiry following irregularities regarding the interview held on 08.11.2010 were found:

- i) That petitioner i.e. Neelam wife of Harvinder Singh resident of village Balbehra, Tehsil Guhla also applied for her selection on the post of Anganwari worker. The petitioner has been married in village Balbehra and also belongs to BC category. The said petitioner was to be given preference for appointment on Anganwari worker being married in the said village Balbehra but the said fact/rule was ignored by the selection committee. The petitioner belongs to BC category but the selection committee has illegally considered her in General category so as to facilitate the respondent No.5 to be appointed on the said anganwari worker post. The petitioner also submitted her BC certificate in which name of her father was mentioned i.e. the certificate is in her name Neelam D/o Surjit Singh Village Bhana which was not considered by the committee and she was considered under general category instead of backward category.*
- ii) That further in the selection list, the marks of interview of the candidate selected at Sr. No.12 has overwriting. Probably the marks from 7½ have been increased to 9½.*
- iii) That the respondent No.5 is an unmarried girl/daughter of village Balbehra and she cannot be given preference to be appointed on the post of AWW, when a girl who is married in village Balbehra belonging to the same BC category was required to be given preference. The petitioner had much more marks in interview but her selection was rejected as she was considered in general category by the selection committee illegally and wrongfully instead of BC category.*

- iv) *That after inquiry, enquiry officer has noticed the above said irregularities and recommended action against departmental officers/officials who committed irregularities for getting the respondent No.5 selected illegally on the post of AWW.
That in view of the aforesaid irregularities, the respondent No.5 is not entitled to remain on the post of AWW and department is at liberty to discontinue the service of respondent No.5.”*

4. *Apropos* above, writ petition deserves to be allowed without adverting any further to the merits of the case as during pendency of the writ petition, not only the respondents have accepted the inquiry report but also based thereon have also terminated the services of respondent No.5 vide office order dated 21.01.2019, which has been handed over in course of hearing. The same is taken on record and marked as Annexure ‘A’.

5. In the aforesaid premise, writ petition is allowed. To the extent of seeking quashing of appointment of respondent No.5, same is rendered infructuous since respondents have already taken corrective steps. As regards, claim of the petitioner to be appointed against the same very post since respondent No.5 has been removed from service, respondents are directed to take her in service subject, of course, to the availability of vacancy as on today caused by the termination of the services of respondent No.5.

6. In case, vacancy is not available as on today, petitioner shall be adjusted against the next future available vacancy as and when the same arises.

7. Disposed of accordingly.

APRIL 27, 2022

vandana

Whether speaking/reasoned :

Whether reportable :

(ARUN MONGA)

JUDGE

Yes/No

Yes/No