

Item No.29
15.05.2023
Court. No. 19
GB

WPA 3883 of 2023

Jhuma Mondal
Vs
The State of West Bengal & Ors.

*Mr. Kallol Basu,
Mr. Moniruzzaman*

...for the Petitioner.

*Ms. Chaitali Bhattacharya,
Mr. Manas Kumar Sadhu*

...for the State.

The Court appreciates the report filed by the Sub-Divisional Officer, Kandi, Murshidabad. The report reads as follows:-

“The above report mentions the 4 (four) candidates who were shortlisted for interview after document verification. Sl No.3 Shayamashree Roy was finally selected after a panel comprising of Sl No.1, Sl No.3 & Sl No.4 was prepared based on highest total marks (Column K). It was later found that all candidates except Sl No.2 reside outside the boundary of ASHA area.

Pertinently it is to mention here that three more candidates namely 1) Rijiya Sultana W/o Jakir Miya, Village-Banti, Post Office-Kirtipur, Police Station-Khargram, District-Murshidabad, 2) Siuli Begam W/o. Amulla Village- Banti, Post Office-Kirtipur, Police Station-Khargram, District-Murshidabad & 3) Suchitra Hazra W/o. Tapan Kumar Hazra, Hatpara, Post Office-Kirtipur, Police Station-Khargram, District-Murshidabad have also applied for the same vacancy but due to them not fulfilling the eligibility criteria in terms of residential status as they are non-resident within the boundary of ASHA area, their names have not been included in the above format as they were not selected for interview.”

It has been categorically stated that apart from Jhuma Mondal (Serial No.2) none of the other shortlisted

candidates or the candidates who applied for the post of ASHA fulfilled the residential criteria.

Ms. Bhattacharya, learned advocate for the State respondents submits that a panel of three persons should be prepared.

It goes without saying that a panel of three must be prepared comprising of eligible candidates and from amongst such candidates, appointment is to be given to the most suitable candidate against the single vacancy. Hence, there is no reason why the petitioner should not be engaged. There is also a provision for relaxation. The petitioner was the only suitable candidate who was disqualified as she got less marks, but she was eligible and there are not cut off marks.

The writ petition is disposed of with a direction upon the authority to consider the petitioner as the only eligible candidate and take necessary steps for her engagement upon obtaining suitable relaxation as per the guidelines. The authority shall take a decision and intimate the petitioner. If there are no other factors against appointment of the petitioner, steps should be taken to engage the petitioner upon taking necessary approval to engage the petitioner, in accordance with law. The petitioner was the only available candidate.

The order of cancellation of the entire recruitment process is set aside.

The respondent No.10 has already resigned. It is evident that apart from the petitioner, none of the

participants had fulfilled the eligibility criteria with regard to the residential status. Thus, no useful purpose will be served by initiating a fresh recruitment process. The petitioner had already applied in the process and was disqualified on the basis of marks, whereas the persons who got the higher marks than the petitioner were not entitled to participate in the process at all as they did not fulfil the eligibility criteria.

The entire exercise shall be completed within a period of two months from the date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)