

13.12.2023

Ct. 35

Sd. 14/15.

WPA 6940 of 2018
Tarajina Bibi Vs. State of West Bengal & Ors.
With

WPA 8238 of 2019
Monira Bibi Vs. State of West Bengal & Ors.

Mr. Partha Pratim Roy

Mr. Anirban Das

..For the petitioner in WPA 6940 of 2018.

Private respondent in WPA 8238 of 2019.

Md. Sarwar Jahan

Mr. Kaustav Roy

.. For the petitioner in WPA 8238 of 2019.

For the respondent no. 9 in WPA 6940 of 2018.

Ms. Jhuma Chakraborty ..For the State.

Both the writ petitions being nos. WPA 6940 of 2018 and WPA 8238 of 2019 are taken up together for hearing and delivering order.

The writ petitioner in WPA 8238 of 2019, namely, Monira Bibi is the selected candidate as an ASHA worker under Bhagwangola-I Block of Murshidabad. She has however, been not allowed to join to the post even after her appointment being approved by dint of the letter of the respondent no. 3 dated 23.02.2018, approving her name as an ASHA worker in Bhagwangola-I Block as mentioned above.

The reason being, another writ petition no. WPA 6940 of 2018 having been filed by the petitioner thereof, namely, Tarajina Bibi. Tarajina Bibi in her writ petition has challenged Monira Bibi's (WPA 8238 of

2019) appointment for the post of ASHA worker in Bhagwangola-I Block.

Monira Bibi, in her writ petition, has sought for directions, that she may immediately be allowed to join in the post, for which she has been selected.

The advertisement is annexed with the writ petition being no. WPA 8238 of 2019, from which it transpires that the authorities had advertised for three vacant posts of ASHA workers in Charlabangola Sub-centre in Hanumantanagar Gram Panchayat under the said Block, from the villages, namely, Charlabangola (Dova para), Charsofihaji para (Saddampara) and Tultuli para respectively. After assessment, according to the report submitted in the form of affidavit by the respondent State, Monira Bibi (WPA 8238 of 2019) was selected on the basis of her higher grades in Madhyamik Examinations. Monira secured 26.44% in Madhyamik Examination, whereas Tarajina Bibi (WPA 6940 of 2018) has secured 10% in the said Examination. On the basis of the eligibility criteria, considering the respective marks and others, the authorities have finally selected Monira Bibi (WPA 8238 of 2019) for the post of ASHA worker under the Sub-Centre Charlabangola, for the village Tultulipara.

Md. Sarwar Jahan appearing for the petitioner in writ petition no. WPA 8238 of 2019 has submitted

that in spite of being duly qualified and being selected for the post of ASHA worker under Charlabangola Sub-Centre and in spite of his client's name being approved by the authorities back in the year 2018 vide letter dated 22.03.2018, she has not been able to join in the said post due to pendency of the other writ petition, i.e., WPA 6940 of 2018, filed by Tarajina Bibi.

He says that the petitioner has prayed for, in this writ petition, a direction allowing her to join in the post for which she has been selected.

Writ petitioner in WPA 6940 of 2018 is the private respondent in WPA 8238 of 2019.

Mr. Partha Pratim Roy appearing for the petitioner in WPA 6940 of 2018 submits categorically that the candidature of the petitioner in WPA 8238 of 2019 should not be considered for the reason of the application of the said writ petitioner having been erroneous and defective and being liable to be rejected. He ventilates his client's grievances that in respect of the application of Monira Bibi being not in form, it has been erroneously and illegally considered by the authorities, and that acceptance of her candidature for the post itself may be nullified. He has further ventilated grievances of his client that Monira Bibi has mentioned in her application the name of "Tultulipara Sub-Centre", which actually does not exist at all. To submit this, Mr. Partha Pratim Roy for the petitioner

in WPA 6940 of 2018 has relied on the report submitted by the State respondents in the form of an affidavit that “Smt. Monira Bibi applied for the post of ASHA for Tultulipara Sub-Centre”.

However, the writ petitioner in WPA 6940 of 2018 should have substantiated her case on the basis of her own record. Except the said report filed by the State authority, there is no other sufficient documents to show actually what was written in the application of the petitioner in WPA 8238 of 2019. In the said report submitted by the State respondents too, no document has been annexed. On the other hand, from the said report, it transpires that there is no Sub-Centre, namely, Tultulipara Sub-Centre. Record, however, shows that “Tultulipara” is the village under Sub-Centre Charlabangola.

Rules provide that a ASHA worker should be a local resident, of the area for which she would be working. Taking the report of the State respondent, even on the face value, any infringement of the said rule is not apparent.

So far as the process of recruitment is concerned, there is no challenge against the selection of the writ petitioner in WPA 8238 of 2019. Since the writ petitioner in WPA 6940 of 2018 is unable to substantiate her case regarding non-maintainability or

non-acceptability of the application of Monira Bibi (WPA 8238 of 2019), I find no merit regarding the case made out by the Tarajina Bibi either as a respondent in WPA 8238 of 2019 or as a petitioner in writ petition No. WPA 6940 of 2018. Her case should fail.

On the other hand, on the basis of the documents available and upon consideration of the report submitted by the State in the form of an affidavit, I am of the opinion that the writ petition being WPA 8238 of 2019 should succeed. Hence, WPA 8238 of 2019 is allowed and WPA 6940 of 2018 is dismissed.

The respondent authority is directed to immediately appoint the writ petitioner Monira Bibi in WPA 8238 of 2019 to the post of ASHA worker at Sub-Centre Charlabangola pursuant to approval granted vide memo dated 23.02.2018.

It is further noted that there are prayer by the writ petitioner in WPA 8238 of 2019 pending before the concerned authority regarding correction of name of her husband in the approval letter dated 22.03.2018.

Let the respondent authority immediately consider her prayer as above and dispose of the same expeditiously.

With the above directions, both the writ petitions are disposed of.

Urgent photostat certified copy of this order be supplied to the parties on priority basis, if applied for.

(*Rai Chattopadhyay J.*)