

27.02.2023
Court No. 19
Item No.03
CP

W.P.A. No. 10302 of 2019

Anmani Ghosh

Vs.

The State of West Bengal & Ors.

Mr. Fazle Rabi

....for the petitioner.

Mr. Pinaki Dhole

Ms. Kakali Samajpaty

....for the State.

The petitioner was selected as an Anganwadi Worker. She was not allowed to join her post at Illambazar I.C.D.S. Project.

The petitioner applied for the post, pursuant to an advertisement issued by the competent authority. Such application was made on October 12, 2006. An appointment letter was issued on April 24, 2007. Thereafter, it was detected by the authorities that the petitioner had given incorrect and false information about her qualification. In a particular column of the said application the petitioner mentioned that her maximum qualification was Madhyamik. The petitioner also signed the document where it had been stated that she was neither a graduate nor a post-graduate. The advertisement also provided that if any of the information supplied by the petitioner was found to be incorrect, her candidature would be cancelled at any

stage. The petitioner was also asked to file a declaration with regard to her maximum qualification. She failed to submit such declaration accompanied by an affidavit sworn in the court of the First Class Judicial Magistrate. The petitioner wrote a letter declaring that she had passed her M.A. examination. The said fact was suppressed in the application form.

The authority did not allow the petitioner to join the post but conducted the aforementioned exercise to ascertain whether the subsequent information received by the authority about the petitioner being a post graduate, was correct or not.

The petitioner has admitted that she is a post graduate. It is an admitted position that she had given false declaration in the application form to the effect that Madhyamik was her highest qualification. She signed the application form which contained a sentence in the nature of a self declaration that the petitioner was neither a graduate nor post-graduate. The application form categorically provided that if any information supplied by the candidate was found to be incorrect, the candidature was liable to be cancelled.

Final decision with regard to cancellation of the candidature has not yet been taken. The Memorandum of the department dated January 25, 2006 categorically provided that graduates would not be eligible for the post of anganwadi workers.

Although the dispute arose sometime in 2007, this writ petition was filed in 2019 by the petitioner. Such delay in moving the court, is not explained.

The petitioner has relied on a Special Bench Decision of this court in the matter of Rina Dutta & ors. Vs. Anjali Mahato & ors, reported in 2010 (2) CLJ (Cal) in support of her contention that higher qualification would not be a bar even if the advertisement provided that the minimum qualification should be matriculation or equivalent.

In the case before the Hon'ble Special Bench, the issue was whether graduates could apply for the post when the minimum qualification was matriculation. The Special Bench held that when the advertisement had not specifically debarred or disqualified graduate women from applying for the post, the appointment of persons with higher qualification would not be a bar, but it would be open for the employer to prescribe disqualification for candidates possessing higher qualification.

In this case the higher qualification was a bar as per the report filed. The application filled in by the petitioner contained a clause where the highest qualification of a candidate was to be mentioned along with a statement of undertaking that she was neither a graduate nor a post-graduate. A further provision was made in the advertisement which stated that if any of the information was found to be incorrect, the authorities

were at liberty to cancel the candidature of the applicant who had furnished wrong information.

In the decision **Jainendra Singh vs. State of U.P. Tr. Prinl. Sec. and ors.** reported in **(2012) 8 SCC 748**, the Hon'ble Supreme Court held that a candidate who gives incorrect information or false information at the time of applying for a job, shall be disqualified and not eligible to be considered for appointment. The Hon'ble Apex Court held as follows:-

“29.4 A candidate having suppressed material information and/or giving false information cannot claim right to continue in service and the employer, having regard to the nature of employment as well as other aspects, has the discretion to terminate his services.

....

29.6 The person who suppressed the material information and/or gives false information cannot claim any right for appointment or continuity in service.”

In this case the authorities underwent the exercise to come to a conclusion that the petitioner had given incorrect information. The final decision is still pending with the District Magistrate. The writ court cannot pass directions in favour of a candidate who had not come with clean hands.

In view of the above findings of the court and on the admitted position that the petitioner is a post-graduate, the writ petition cannot be allowed. The same is dismissed on the ground of suppression of material facts in the application, also on the ground of furnishing false information as well as on the ground that the

employer reserved the right to cancel the candidature of any person who had submitted false and incorrect information.

The authorities are at liberty to take steps in accordance with law.

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.)