

09.02.2023
DL-26
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 18709 of 2021

Dipika Saha & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Sufi Kamal,
Ms. Shireen Hossain
....for the petitioner.

Mr. Tapan Kumar Mukherjee,
Ms. Saheli Mukherjee
....for the State.

The petitioners have applied for being engaged as Anganwadi Workers (AWW)/Anganwadi Helpers (AWH) pursuant to an advertisement dated December 10, 2009 for the ICDS project in Chanchal-II.

It appears from the admit cards issued to the writ petitioners that in the event the writ petitioners secured more than 25% in the written examination they will be called for an interview.

It is the petitioners' grievance that the marks obtained by the writ petitioners in the written examination have not been communicated to them and the petitioners have not been called for an interview.

From the additional report on affidavit filed on behalf of the State-respondents affirmed on February 8, 2023, it appears that the petitioner no.1 who is a

general candidate obtained 25 marks and the petitioner no.2 who is a ST candidate obtained 27 marks in the written examination.

Mr. Kamal, learned counsel, appearing on behalf of the petitioners submits that despite obtaining more than 80% marks in the written test, the petitioners were not called for the oral interview.

Mr. Mukherjee, learned additional Govt. Pleader appearing on behalf of the State-respondents submits that the candidates who have been selected have obtained substantially more marks than the petitioners in the written test and there was no mala fide intention or arbitrariness on the part of the State-respondents in the engagement of AWW/AWH. He further submits that the petitioners have approached this Court at a belated stage and, therefore, the writ petition should be dismissed.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that by not being called for an interview despite securing more than 25% in the written test, the petitioners' valuable right to be considered for engagement as AWW/AWH has been infringed/ violated. This Court finds that the candidates who are engaged and working as AWW/AWH at Chanchal-II have not been brought on record.

It is true that the petitioners have approached this Court at a belated stage and, therefore, this Court is not willing to disturb the settled rights in favour of the third parties who have already been engaged.

However, this Court cannot be unmindful of the fact that the valuable right of the writ petitioners to be considered for engagement after being called for an interview have been violated by the State-respondents.

In the circumstances, this Court directs the State-respondents particularly, respondent nos.3, 5 and 6 to consider the petitioners' candidature for engagement as and when the vacancies arise with regard to AWW/AWH in respect of Chanchal-II.

The petitioners will not be debarred from appearing for the interview on the ground of crossing the requisite age limit for being engaged as AWW/AWH. The petitioners' rights to be called for an interview have already crystallised and the marks obtained in the written examination will be taken into account while the petitioners are called for the interview.

With the directions aforesaid, **WPA 18709 of 2021** is disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)