

03.10.2023
Item No.10.
Court No.550.
AB

WPA 22415 of 2009

**Mousumi Sarkar & Ors.
Vs
The State of West Bengal & Ors.**

Mr. Santanu Majhi,
Mr. Subhayu Dasfor the Petitioners.

Mr. Ansar Mondal,
Mr. Lalit Mohan Mahato,
Mr. Rudranil De,
Md. Idrishfor the State.

1. The present writ petition pertains to selection to the post of Angwanwari Karmee, under Bhagwangola-II, I.C.D.S. Project. When the writ petition came up for consideration, since it was noticed that the respondents had not filed any opposition and since, the respondents were not represented, by an order dated 31st March 2023, this Court had directed the petitioners to serve a notice upon the Office of the learned Government Pleader.

2. Subsequently, the matter came up for consideration on 20th June 2023. On the aforesaid date since, the respondents once again were not represented, this Court taking into consideration the case made out by the petitioners had directed the respondent no.4 (The Child Development Officer, Bhagwangola-II, I.C.D.S., Project) to be personally present in this Court.

3. Pursuant to the aforesaid order, on 4th July 2023 the Child Development Officer, Bhagwangola-II was personally present. Having heard the learned advocates and the Child Development Officer, this Court had granted an opportunity to the said respondent being respondent no.4, to explain by filing a report as to how the candidate in sl. no.32, had been appointed to the post of Angwanwari worker under Bhagwangola-II I.C.D.S., Project, Murshidabad, despite securing lesser marks than the petitioners.

4. Pursuant to the aforesaid direction, the respondent no.4 has filed a report in the form of an affidavit. In paragraph 7 of such report, it has been, *inter alia*, acknowledged that the petitioner no.2 had secured 41.42 marks. The writ petitioners have since, pursuant to leave granted by this Court filed an exception to the said report. In such exception it has been categorically stated that one Sahamina Khatun, who had been selected on the basis of securing 41.42 marks is aged 34 years only. In support of such contention, copy of the voter list has been enclosed. By referring to the memorandum dated 15th November 2007, issued by the Programme Officer & Ex officio Deputy Secretary, Department of Women and Child Development and Social Welfare, regarding a clarification issued in connection with selection of Angwanwari workers and helpers, it is submitted that in the event two candidates secure the same marks, in

the selection test, the candidate with seniority in age will be considered for appointment.

5. Having regard to the aforesaid, it is submitted on behalf of the petitioners that at least, the case of the petitioner no.2 ought to have been considered since, she is admittedly senior in age.

6. Mr. De, learned Advocate, representing the State respondents, on the other hand, by placing reliance on the report, submits that insofar as the petitioner nos.1 and 3 are concerned, they do not merit any further consideration as the petitioners are from the general category. The candidates under sl. nos. 31 and 34 despite low score were appointed under S.C. reserved posts. Insofar as the petitioner no.2 is concerned, he, however, candidly submits that in the event the petitioner no.2 is found to be senior to that of Sahamina Khatun, who is placed under sl. no.29, on the basis of the memorandum dated November 15, 2007, the case of the petitioner no.2 ought not to have been ignored. He submits that the aforesaid matter, however, requires to be verified by the respondent no.4.

7. Having regard to the submissions made by the respective parties and taking into consideration the fact that the petitioner no.2 admittedly, had secured 41.42 marks, which is identical, to the marks secured by a successful candidate, namely, Sahamina Khatun, being placed under sl. no.29, I am of the view that in

the event the respondents find the petitioner no.2 to be senior to that of Sahamina Khatun, in the light of the of memorandum dated November 15, 2007, the case of the petitioner no.2 cannot be ignored and in such an eventuality the case of the petitioner no.2 be considered, for selection in a suitable, vacant post.

8. In view of the aforesaid, I direct the respondent no.4 and 6 to reconsider the petitioners' candidature in the light of the observations made hereinabove and to take a reasoned decision in the matter, and if the petitioner no.2 is found to be senior to that of Sahamina Khatun placed under sl. no.29, as indicated above, she be declared as such and to issue appropriate directions for accommodating her. Insofar as the petitioner nos.1 and 3 are concerned, the same does not merit further consideration.

9. The writ petition is, thus, dismissed insofar as the petitioner nos.1 and 3 are concerned. Insofar as the petitioner no.2 is concerned, the writ petition stands disposed of with the aforesaid observation and direction.

10. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties as expeditiously as possible after compliance with all the necessary formalities.

(Raja Basu Chowdhury, J.)