

20.11.2023
Sl. No.19
srm

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

W.P.A. No. 2476 of 2023

Man Kumari Tamang (Saha)

Vs.

The State of West Bengal & Ors.

Mr. Ekramul Bari,
Mr. Imtiaj Uddin,
Mrs. Smita Sinha Mitra

....for the Petitioner.

Mr. Momenur Rahman,
Mr. Pretam Das

.....for State-respondents.

Affidavit-of-service is taken on record.

Pursuant to the advertisement published by the Child Development Project Officer, Nagrakata Integrated Child Development Services (ICDS) Project, inviting applications from the intending candidates for the post Anganwadi Worker bearing Advertisement No.1 dated July 27, 2006, the petitioner applied for the post and participated in the selection process.

The petitioner succeeded in the written examination as also in the interview. The petitioner was issued an appointment letter by the Child Development

Project Officer, Nagrakata Integrated Child Development Services (ICDS) Project. The joining report of the petitioner was accepted and the petitioner was allowed to work for a brief period. Thereafter, the service of the petitioner was terminated by the respondent No.2 on the ground that the petitioner was holding a higher qualification, but had not disclosed the same in her application. She had got the job by suppression. As per the advertisement, the higher qualification was a disqualification.

It is submitted that after a few years from termination of the petitioner, the clause prohibiting a person having higher qualification from participating in the recruitment process for selection of Anganwadi Worker, had been withdrawn. The petitioner submits that the petitioner may be re-engaged as an Anganwadi Worker on the basis of such revised guideline.

It is an admitted position that when the petitioner had applied for engagement as an Anganwadi Worker she had a higher qualification. The petitioner did not disclose such higher qualification, although the advertisement specifically had put an embargo in this regard. The petitioner worked a very short time, but was terminated on account of ineligibility.

It is settled law that if an employee had been engaged contrary to the law or was found ineligible as per the advertisement, such engagement can be cancelled. In this case, the petitioner had suppressed the fact that she had higher qualification. The revised guideline was published in 2012 and the petitioner was dismissed in 2007. In May 2023, the petitioner has asked for reconsideration of her engagement. This Court does not find any reason to pass any orders in favour of the petitioner. The petitioner does not have any locus to pray for re-engagement when the petitioner's engagement had been cancelled on the ground of suppression and illegal engagement.

Accordingly, the writ petition is dismissed.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)