

**209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.12807 of 2017 (O&M)

Date of Decision: January 10, 2023

Sheela Devi

...Petitioner

Versus

Housing Board Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- Mr. Ashwani Talwar, Advocate for the petitioner.

Mr. Vishal Garg, Advocate for respondent Nos.2 and 3.

None for respondent No.4.

AUGUSTINE GEORGE MASIH, J.(Oral)

Challenge in this writ petition is to the order dated 10.10.2016 (Annexure P-9) vide which in compliance with the order passed by this Court a speaking order came to be passed by the Secretary, Housing Board, Panchkula, declaring the petitioner to be not a government employee thus, ineligible for allotment of the flat under the EWS category. Challenge is also to the order dated 25.04.2017 (Annexure P-11) passed by the Secretary Housing Board, Haryana, Panchkula, whereby the appeal which was preferred by the petitioner has also been dismissed.

Learned counsel for the petitioner has asserted that the petitioner is working as an Anganwadi worker since 19.12.1997 regularly without any break, although under the Central Government Sponsored Scheme. Merely because the petitioner is being paid an honorarium would not disentitle her to the benefits of a scheme which has been floated by the Housing Board, entitling the State Government

employees as detailed in the advertisement, a copy whereof has been appended with the petition as Annexure P-1, wherein the Haryana Housing Board offered 54 EWS flats at Gurugram for the regular government employees as detailed therein.

The details with regard to the category for reservation in the quota qua the government employees found mentioned in table 4. The same reads as under:-

“RESERVATION:-

The applicant should apply against one of the following categories by indicating code in the application form as given to each category.

TABLE - 4

Sr. No.	Category	Reservation Code (to be given in col 8 of the application form)	%age Reservation	EWS Flats	
				Total flats reserved	Reserved for women
1.	Haryana State Government Employees: (i) Haryana State Government Emoloyees and employees of Boards/Corporations, Improvement Trusts/State Co-operative Banks under Haryana Government who have more than five years of service at the time of application to retire.	HGE-I	3%	2	1
	(ii) Haryana State Government Employees and Employees of Boards/Corporations, Improvement Trusts/State Co-operative Banks under Haryana Government who have less than five years service to go.	HGE-II	2%	1	Nil

Learned counsel for the petitioner has pointed out that one Prem Lata, who was a government employee filed CWP No.20172 of

2015 claiming that ineligible persons i.e. Sheela Devi has been allotted an EWS flat under this reserved category. As a matter of fact, only three women candidates applied and out of these, two were belonging to the category of Anganwadi worker and third was Prem Lata. Since she was eligible, she challenged the allotment of the flat in favour of the petitioner.

When the case came up for consideration, the writ petition was disposed of by this Court vide order dated 26.04.2016, directing the respondents to consider the eligibility aspect qua the two Anganwadi workers for allotment of the EWS flat. The said decision was to be taken within a period of four weeks leading to the passing of the impugned speaking order dated 10.10.2016 (Annexure P-9) by the Secretary, Housing Board, Haryana, Panchkula. According to the said order, the petitioner along with other Anganwadi workers were found to be ineligible as they were held to be non-government employees. The appeal has also been dismissed which order has been impugned dated 25.04.2017 (Annexure P-11) on the same reasoning.

Learned counsel for the petitioner has referred to the pleadings to contend that the petitioner despite the fact that she is working under the Central Sponsored Scheme still with the dint of time since she is working w.e.f. 1997, has completed more than 20 years of continuous service. The honorarium, which is being paid is in fact the regular source of income which is provided to the petitioner and that too from the government funds and resources, therefore it cannot be said that the petitioner is not a government employee. Merely because the petitioner is working under a particular scheme would not disentitle the

petitioner to the said benefits. Referring to the various categories of government employees, who have been made eligible as per advertisement, counsel has contended that not only the State Government employees but the employees of the Board/Corporation, Improvement Trusts/State Co-operative Bank under the Haryana Government have also been made eligible. If the employees, who are not direct employees of the Haryana Government have been made eligible, why not the employees who are under a particular scheme and that too a Central Government Sponsored Scheme, not be eligible, especially when it is a beneficial scheme which has been floated to a particular category of employees. He on this basis has asserted that finding as has been recorded in the impugned order cannot be sustained and deserve to be set aside.

On the other hand, learned counsel for respondent No.2 and 3 has mentioned with reference to the information, as has been received from the Department, where the petitioner is serving i.e. the Department of Women and Child Development. Referring to the communication/information as received from the Women and Child Development Project Officer, Matanhail, dated 30.06.2016 (Annexure R-1), he contends that the petitioner has been held to be not a government official and is a honorary worker, who is being paid a fixed honorarium/ wages of ₹7,563/- per month. The factum of the petitioner having served the respondents continuously has not been disputed. He, however, contends that once the petitioner has not been found to be a government official, she would not be entitled to the benefits under the scheme, which has been floated by the Housing Board Haryana, Panchkula, detailing therein the eligibility condition. He further states that since the condition

as has been imposed in the advertisement, has not been challenged by the petitioner, it would not be open to the petitioner to take this plea where the petitioner does not fall in the particular category. He on this basis contends that writ petition preferred by the petitioner deserves to be dismissed and the impugned order to be upheld.

We have considered the submissions made by counsel for the parties and with their assistance have gone through the pleadings.

As per advertisement, which has been issued vide Annexure P-1, the category of employees, who are held eligible for applying for the reserved category has been specified at serial No.1 at table No.4 as reproduced above. Undoubtedly, the petitioner as per the information which has been sought for and provided by the Department where the petitioner is serving i.e. the Women and Child Development Department, petitioner is not a government official and is honorary worker under a Central Government Sponsored Scheme. Since the petitioner is not a government employee, she would not be entitled for allotment of the flat.

Another aspect which persuades us not to take a different view is that categorization and the eligibility condition as has been laid down in the advertisement has not been assailed by the petitioner as there is no challenge to the same. Since the petitioner does not fall within the category of a government employee and she is ineligible for allotment of the flat as reserved for the government employees.

In the light of the above, we do not find any merit in the present writ petition and therefore, dismiss the same, upholding the impugned orders.

Since the main case has been dismissed, no order is required to be passed in the pending miscellaneous applications and the same stand disposed of as infructuous.

(AUGUSTINE GEORGE MASIH)
JUDGE

(DEEPAK GUPTA)
JUDGE

January 10, 2023
sarita

Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No