

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(109)

CM-4796-C-2023 in/and

RSA-5550-2016

Date of Decision : May 08, 2023

Meenu Bala

.. Appellant

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ravinder Malik (Ravi), Advocate,
for the applicant-appellant.

Ms. Vibha Tewari, Assistant Advocate General, Haryana,
for respondents No. 1 to 5.

Mr. R.S. Longia, Advocate, for respondent No.6.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-4796-C-2023

Present application has been filed for recalling the order dated 25.04.2023, by which, the present appeal was dismissed for non-prosecution.

Notice of the application to the counsel opposite.

Ms. Vibha Tewari, learned Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondents No. 1 to 5 and Mr. R.S. Longia, Advocate, accepts notice on behalf of respondent No.6. They raise no objection for the grant of prayer

as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed. The order dated 25.04.2023 is recalled and the appeal is restored to its original number and status.

RSA-5550-2016

1. In the present Regular Second Appeal, the challenge is to the judgment and decree of the Courts below by which the suit filed by the appellant-plaintiff challenging her rejection qua the appointment to the post of Anganwari Worker, has been dismissed.

2. Learned counsel for the appellant argues that in the present case, the only reason given for not selecting the appellant-plaintiff as Anganwari Worker despite the fact that she had secured the more marks as per the criteria fixed, is that she failed to produce the original documents in support of her claim at the time of interview.

3. Learned counsel for the appellant submits that qua the said aspect, the appellant has two arguments for the consideration of this Court.

4. Learned counsel for the appellant submits that first of all, one of the member of the Selection Committee, who was produced before the Court below, has clearly stated that the appellant-plaintiff possessed all the original documents at the time of interview hence, the question of not producing the same is incorrect, hence, the Courts below have not considered the evidence which is on record in the correct perspective while arriving at the conclusion.

5. The second argument which is raised by the learned counsel for the appellant is that even if it is assumed that the original documents were

not produced, there was no requirement of producing the same keeping in view the terms and conditions mentioned in the interview letter hence, the claim of the appellant could not have been rejected on the ground of non-production of original documents.

6. I have heard learned counsel for the appellant and have gone through the record with his able assistance.

7. It may be noticed that one of the member of the Selection Committee i.e. PW/2- Jamero, who during her examination, has stated that the selection was made in a manner required and no favoritism was extended to anyone. The said witness conceded the fact that the result produced wherein, it has been shown that the appellant-plaintiff did not produce the original document was attested by her by appending her thumb impression but submitted that thumb impression was taken by the other member of the Committee without actually informing her the correct facts.

8. The testimony of the said witness has been discarded by the Courts below on two accounts. Firstly that she is the relative of the appellant-plaintiff and further, nothing has come on record that after appending the said thumb impression, on being informed as to on what account the appellant-plaintiff has been not selected, she did not raise any grievance or file complaint with the other members at any given point of time to raise a plea that her thumb impression has taken by fraud.

9. Hence, the findings recorded by the Courts below by giving due interpretation to the facts and evidence on record, is not perverse keeping in view the facts and circumstances of the present case.

10. As far as the argument of the learned counsel for the appellant that there was no requirement to produce the original documents, it may be

noticed that the selection was done on the basis of the interview only. Therefore, certain minimum qualification was required and producing of the domicile certificate was also necessary. In order to test the eligibility of a candidate as to whether, the original document do support the documents attached with the application form, the original documents were required to be seen by the Committee in order to adjudge the eligibility of each candidate, hence, checking of the original documents so as to ensure that the claim raised by a candidate is well within the eligibility prescribed, cannot be treated as arbitrary and illegal especially when, learned counsel for the appellant has conceded before this Court that there is no challenge to the selection on the ground of mala fide or arbitrariness.

11. Keeping in view the above, as no perversity could be pointed out by the learned counsel for the appellant qua the findings recorded by the Courts below, no interference is called for by this Court in the present appeal.

12. Dismissed.

May 08, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes