

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

***FMA 321 of 2022*
CAN 1 of 2021
Smt. Nilu Rani Dey (Atta)
Vs.
State of West Bengal & Ors.**

For the Appellant : Mr. Kamalesh Bhattacharya
Mr. Pradip Paul
Ms. R Dey

For the State : Mr. Jaharlal De
Mr. Shamim Ul Bari

Heard on : 24.09.2024

Judgment on : 24.09.2024

Joymalya Bagchi, J.:-

1. Appellant contends she was the second empanelled candidate and was to be appointed after the first candidate was found ineligible. In the earlier writ petition, appointment of the first empanelled candidate had been set aside at her behest. Accordingly, she is entitled to appointment.
2. Mr. De for the State contends appellant is not an empanelled candidate and could not have been appointed.

3. In response, Mr. Bhattacharya contends appellant had averred in the earlier writ petition she is the second empanelled candidate and on the strength of such averment order came to be passed.
4. One Nilima Maity had been appointed as ASHA Karmee in Kharagpur Block II. Appellant assailed her appointment on the ground she was neither a widow nor a divorcee as per the criteria laid down in the advertisement. Hon'ble Single Judge allowed the writ petition and cancelled appointment of Nimila Maity. By the selfsame order the second empanelled candidate was directed to be appointed in her place and stead.
5. Accordingly, one Soma Rani Atta was appointed to the post. Appellant challenged her appointment on the ground she was the second empanelled candidate and was entitled to appointment. Hon'ble Single Judge perused the names of candidates who were empanelled and found that the appellant's name does not feature at all. Under such circumstances the writ petition was dismissed.
6. During hearing Mr. Bhattacharya is unable to place on record any document to show that she had been empanelled for the said post. He relies on the averments in the writ petition which are not supported by any contemporaneous document. In such view of the matter we are of the opinion appellant was not empanelled for appointment at all and had made false averments to that effect in the earlier writ petition.
7. Accordingly, the appeal is dismissed.

8. Ordinarily we would have penalized the appellant by imposing cost but we note that she is a lady and comes from an economically weaker section of society. Hence, we refrain from imposing costs on her.
9. Urgent Photostat certified copy of judgment, order if applied for be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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