



2024:DHC:7732-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 13871/2024 & CM APPL. 58059/2024, CM APPL. 58060/2024**

GOVT OF NCT OF DELHI AND ORSPetitioners
Through: Mrs. Avnish Ahlawat, SC with
Mr. N. K Singh, Ms. Laavanya Kaushik, Ms.
Aliza Alam and Mr. Mohnish Sehrawat,
Advs.

versus

PARMILA DEVIRespondent
Through: Mr. Devesh Singh and Mr.
Shreeraj Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT (ORAL)

% **03.10.2024**

C. HARI SHANKAR, J

1. We have heard Mr. N.K. Singh, learned Counsel for the petitioners and Mr. Devesh Singh, learned Counsel for the respondent.

2. The respondent had applied in response to an advertisement for recruiting 290 posts of Supervisor Grade-II (Female) in the Department of Women and Child Development. Out of the said 290 vacancies, 25% vacancies were reserved for women who had worked as Anganwadi Workers and had at least ten years of service as Anganwadi Worker to their credit, with matriculation, and the

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remaining 75% vacancies were reserved for direct recruitment to be filled by candidates having Graduation in Home Science, Social Work or Child Development.

3. The stipulation in the advertisement with respect to age-limit was as under:

“Age Limit: 27 years, (Relaxation in upper age limit;- SC/ST 05 years, OBC-03 years, PH-10 years, PH & SC/ST-15 years, PH & OBC-13 years, Departmental Candidates/Ex-SM-As per DOPT guideline, Women/Widow-As per rule, Anganwari Worker- Upper age is relaxable to the extent of the period served as Anganwari Worker, subject to a maximum relaxation of 15 yrs).”

4. The respondent participated in the selection process, which was conducted by the petitioner-Delhi Subordinate Services Selection Board¹. Though she cleared various stages of the selection process satisfactorily, when she was awaiting her offer of appointment, she was informed that her candidature had been rejected on the ground that she was over-age. She, therefore, approached the Central Administrative Tribunal for setting aside the notice dated 16 August 2019 cancelling her candidature and for a direction to appoint her to the post of Supervisor Grade-II (Female). The learned Tribunal has, by the impugned order dated 11 August 2023, allowed the OA. Aggrieved thereby, the DSSSB is before this court under Article 226 of the Constitution of India.

5. A reading of the impugned order passed by the learned Tribunal indicates that the only ground that was taken by the petitioners, as the respondents before the learned Tribunal, was that the respondent had



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produced two certificates, one reflecting that she had worked as an Anganwari Worker from the period 14 May 1997 to 18 July 2007 and the second from the New Indian Educational and Cultural Society showing that she has worked in the said institution from 25 May 2000 to 8 February 2007. Para 4 of the impugned order may be reproduced in this context as under:

“4. On the other hand, learned counsel for the respondents vehemently opposes the O.A. and draws attention to Page Nos. 49 & 50 of the O.A.. He argues that applicant has submitted two certificates at the time of applying for the said post. The first certificate is of course from the Department of Women and Child Development, wherein it is mentioned that she has served as Anganwari worker from 14.05.1997 to 18.07.2007. However, the second certificate was from an institution namely New Indian Educational & Cultural Society (Regd.), wherein she has rendered services w.e.f. 25.05.2000 to 08.06.2007.”

6. Thus, it is clear that the petitioners did not, before the learned Tribunal, question the entitlement of the certificate of Anganwadi experience from 14 May 1997 to 18 July 2007, tendered by the respondent, to be considered, on principle. The only objection that was raised was that, as there were two certificates, of which the period covered by the certificate issued by the New Indian Educational and Cultural Society overlapped with the period covered by the certificate of Anganwari experience, one of the certificates must have been concocted. This appears to have been the ground for the petitioners to have rejected both the certificates.

7. The learned Tribunal has examined this aspect in detail. Para 6 to 9 of the impugned order may be reproduced in this context as

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under:

“6. In rejoinder, learned counsel for the applicant states that there are two certificates issued in favor of the applicant, one by the Department of Women and Child Development (at Page No.49) and another by an NGO (at Page No.50). He clarifies that the applicant worked at both the places, and that the applicant has already submitted clarification dated 24.07.2019 (annexed at Page No.51) to the Chairperson, DSSSB, explaining the reason as to why she possesses two certificates. He states that at the relevant time in time, the Anganwadi Worker was not a civil post, the applicant was expected to work for certain number of hours only and since she had time after her duties as Anganwadi worker, she was utilizing the time by rendering her service to an NGO, which nowhere conflicts with the services rendered by her at Anganwadi. Accordingly, both the certificates are in fact correct and, therefore, she is entitled to get the age relaxation in terms of the advertisement and be offered an appointment in her favor.

7. Heard both the parties at length.

8. It is not in dispute that the applicant has applied in pursuance of the advertisement bearing Post Code 212/2014 for the post of Supervisor Grade II in the Department of Women and Child Development and she has submitted two certificates which are annexed at Page Nos. 49 and 50 and the reason for having two certificates is sufficiently explained by her vide a Communication dated 24.07.2019 annexed at Page 51. We are intrigued to note that the certificate placed at Page No. 49 has been issued by the Department of Women and Child Development itself and the post against which the applicant has applied is also with respect to the same department. However, the said certificate has not been verified by the respondents, and without verification, the respondents have rejected the claim of the applicant at their end, concluding that the certificates are concocted. They have not taken cognizance of either of the certificates and the applicant has been rendered over age. The benefit of age relaxation has not been extended to her arbitrarily, without any application of mind.

9. Since the explanation given by the applicant, regarding the two certificates is, sufficient, the impugned rejection notice no.496 issued on 16.08.2019 (Annexure A/1) is quashed and the recruiting agency i.e. DSSSB is directed to get the certificate (annexed at Page No. 49 of the OA) verified from the user department and in case upon such verification, it finds favor to the applicant, the offer of appointment for the post of Supervisor Grade-II (Female) be extended to her. It is needless to say that she shall be entitled to get

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all the consequential benefits against the last selected candidate in her category, pursuant to the selection process initiated for the Post Code 212 / 14 albeit on notional basis only and on actual basis from the date of joining. This exercise shall be completed within a period of twelve weeks from the date of receipt of a certified copy of this order.”

8. This court, while exercising writ jurisdiction, does not sit in appeal over the decision of learned Tribunal on facts. We have perused the reasoning which has prevailed with the learned Tribunal in accepting the Anganwadi experience certificate provided by the respondent and are satisfied that it is not so perverse as to warrant interference under Article 226 of the Constitution of India. It is a well-known fact that the recompense received by Anganwadi Workers is a mere pittance and it is often impossible for an Anganwadi Worker to sustain herself and her family, on the amount received from such work. It is not unnatural, therefore, for Anganwadi Workers to also render service in the evenings after the Anganwadi work is over so that some additional income may be earned.

9. We are satisfied that the reasoning of the learned Tribunal does not deserve interference under Article 226 of the Constitution of India.

10. Before us, Mr. N. K. Singh sought to raise an additional contention. He submits that the respondent had submitted the Anganwadi certificate of experience from 14 May 1997 to 18 July 2007 after having filled in and submitted the application form and, therefore, the certificate could not be taken into account.

11. We have seen the counter affidavit filed by the petitioners



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before the learned Tribunal. The following paragraphs of the counter affidavit merit reproduction:

“REPLY ON MERITS:

1. The applicant has not approached the Hon'ble Tribunal with clean hands in so far as that the applicant while filing her application in OARS module had claimed that she had worked as DWCD w.e.f. 17.08.2011 to 25.01.2015 i.e. 3 years 5 months and 8 days only. However, when the documents were called for on her e-dossier module she submitted two separate work experience certificate, one from New India Educational and Cultural Society (Regd) wherein it was claimed that she had worked in the field of literacy drive w.e.f. 25.5.2000 to 8.6.2007 and the second one from the Department of Woman & Child Developments AWW w.e.f. 14.5.1997 to 18.7.2007. It is evident from the experience certificate furnished by her that the same are either concocted or false documents as both the experience certificates run concurrent to each other and it is not possible to have two work experience in different fields at the same point of time. Therefore these two experience certificates uploaded by the candidate could not have been considered by the respondent Board because of the duplicity evident on the face of the certificate. Further, this period of time could not have been considered and any other experience furnished by her at a later stage could not have been considered by the Board, as it strictly goes by the documents uploaded by the candidate on the e-dossier module and no hard copy of any document whatsoever are acceptable or honoured by the Board as per the policy. The Date of Birth of the applicant is 8.10.1976 and after grant of age relaxation of six years five months and eight days, i.e. three years for being OBC candidate and three years five months and eight days as AWW i.e. departmental candidate experience, the applicant was still overage and accordingly the rejection notice had been rightly issued as she was 38 years 3 months 17 days as on the cutoff date of 25.1.2015 and the upper age limit for the said post was 27 years and even after grant of six years plus relaxation she was still found to be overage by more than four years.

5. REPLY ON GROUNDS

A to G. The details of work experience as uploaded by the applicant on to the Board's website through the e-dossier module as well as OARS portal have been examined in detail as mentioned in para-1 herein above and accordingly rejection done is strictly in accordance with the documents provided by the applicant herein

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Anything being furnished by her at this stage after the details of rejection are available to her is purely an afterthought and can not be considered by the Respondent Board what-so-ever. Therefore, the applicant has no case whatsoever.”

12. A conjoint reading of the above paragraphs indicate that the Anganwadi experience certificate was provided by the respondent along with her e-Dossier, on the petitioners requiring her to do so. The reply to ground A to G of the petition, as contained in the counter affidavit, specifically states that details of work experience as uploaded by the applicant on the Board’s website to the e-dossier module as well as the OARS portal had been examined in detail and the documents provided by the respondent in that regard were “strictly” taken into account.

13. It is obviously for this reason that the petitioners did not seek to contend, before the learned Tribunal, that the Anganwadi certificate of experience from 14 May 1997 to 18 July 2007 did not merit consideration.

14. The submission of Mr. N. K. Singh that the Anganwadi certificate has been produced late and could not be considered cannot, therefore, be accepted.

15. Having examined the impugned order passed by the learned Tribunal, we are satisfied that no case for interference is made out.

16. The writ petition is accordingly dismissed in *limine*.



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17. Pending miscellaneous applications also stand dismissed accordingly.

C. HARI SHANKAR, J

DR. SUDHIR KUMAR JAIN, J.

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Click here to check corrigendum, if any

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