

S/L 20
19.03.2026
Court No.04
B.K.N

F.M.A. 2773 of 2016
Mst. Sufia Sadika
Vs.
State of West Bengal & Ors.

Mr. Usaf Ali Dewan,
Mr. Asif Dewan

...for the Appellant.

Mr. Bhaskar Prasad Vaisya, Ld. AGP,
Mr. Ranjan Saha

...for the State Respondents.

1. Heard the learned advocate for the appellant as well as the learned advocate for the State.
2. The petitioner was served with a notice of termination dated 28.08.2012 disengaging her from the ICDS Scheme wherein she was working as an Anganwari worker. The disengagement was on the ground that she possessed a graduate qualification whereas the advertisement contemplated appointment of persons having Class 10 (Madhyamik) pass qualification or equivalent.
3. The notice of termination was put to challenge by the writ petitioner before this Court. The writ petition bearing no. W.P. 20004 (W) of 2012 was dismissed. The Hon'ble Single Judge was of the view that since the advertisement specifically held over qualified candidate as ineligible, the notice of termination requires no interference.
4. The learned advocate for the appellant submits that the issue was considered earlier by a Special Bench in the case of **Rini Dutta & Ors. –Vs.- Anjali Mahato &**

Ors. (F.M.A. 757 of 2005). Referring to the same he submits that the order of the Hon'ble Single Judge is unsustainable. We have gone through the order of the Special Bench. The relevant extract of the order reads:

“10. It is, however, not necessary to pursue this discussion any further because we have already held that the advertisement did not specifically debar or disqualify graduate women from applying for the post of Anganwadi workers and, therefore, the engagement of the appellants and the other private respondents in FMA 757 of 2005 the writ petition as Anganwadi workers could not be said to be illegal on the touchstone of the advertisement. It is true that if the provisions of the scheme were to be applied, the appellants and the 4th private respondent would be in difficulty. However, having regard to the fact that the appellants and others were appointed way back in 1998 and they have continued in employment for the last 12 years and the advertisement specifically did not disqualify or debar graduate women, we are not inclined to disturb their appointment. To that extent the appeal will have to be allowed and the order of the learned Single Judge quashing and setting aside the appointment of respondent nos. 6 to 9 in the writ petition including the three appellants herein is set aside. The writ petition will accordingly have to be dismissed.”

5. A plain reading of the order reveals that the Special Bench proceeded to consider the issue with a view to its resolution on the touchstone of the advertisement governing the engagement process. The advertisement in the case falling for consideration before the Special Bench did not disqualify or bar a graduate woman from applying for being engaged as an Anganwadi worker.
6. In the present case from a plain reading of the requisite educational qualification specify in the notification/advertisement dated 16.10.2009 pursuant to which the petitioner was engaged reads:

“e) Educational Qualifications –

General Candidates: Minimum Class 10 (Madhyamik) pass or equivalent.

SC/ST Candidates: Minimum Class 8 (Eight) pass from a recognized school. Ineligibility: Candidates with Graduate (Degree or higher educational qualifications will be considered ineligible for this post.

Photocopies of all educational mark sheets must be attached. Candidates who have passed Class 8 must have their mark sheets countersigned by the D.I/A.D.I. of Schools.”

7. A plain reading of the advertisement reveals that the same in unambiguous terms declares a graduate candidate to be ineligible for the post. The petitioner’s case, therefore, cannot derive any sustenance from judgment of the Special Bench.
8. The learned advocate for the appellant also placed reliance on co-ordinate Bench decision in ***F.M.A. 238 of 2010*** dated 24.01.2014 and submits that the bar operating against higher qualified candidates is unsustainable. In this regard reliance is also placed on another co-ordinate Bench decision in the case of ***The State of West Bengal and Others –Vs.- Bharati Ghorai and Others*** in ***F.M.A. 288 of 2015***. The judgment is dated 18.06.2015. The learned advocate submits that the restriction is unreasonable. The petitioner did not take any benefit of the higher qualification (graduate) and, therefore, the order of disengagement is unsustainable. In the present case the restriction on higher qualification was explicit in advertisement as noted above. The advertisement in unambiguous terms stated that person having a higher qualification (graduation) would be disqualified. The

petitioner did not assail the advertisement having such a restriction, and in fact participated in the selection process and got an appointment. Having participated in the recruitment process with open eyes knowing about the disqualification based on higher qualification, he cannot be permitted now to question the disqualification in the advertisement. After participating in a recruitment process a candidate is normally estopped from raising such issues. In the present case we find that the petitioner/appellant not only participated in the recruitment process, but also got selected by suppressing her higher educational qualification at the time of making application. The petitioner, therefore, in our considered opinion does not deserve any relief based on the decisions rendered by the co-ordinate Bench, noted above.

9. The Special Bench decision being decision of a Bench comprising of three Judges in unambiguous terms has laid down the law regarding the issue of disqualification, based on restriction on higher qualification being considered on the touchstone of the advertisement governing the selection process, which we have considered above. We have found the advertisement to contain an explicit disqualification of a higher qualified candidate (graduate). The advertisement states that such candidate to be ineligible for the post.
10. We are not inclined to interfere with the order passed by the Hon'ble Single Judge.

11. The appeal is dismissed.
12. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)