

Urmila Das Vs. State of Odisha and Others

Urmila Das Vs. State of Odisha and Others

SooperKanoon Citation : sooperkanoon.com/1163073

Court : Orissa

Decided On : Aug-19-2014

Appellant : Urmila Das

Respondent : State of Odisha and Others

Advocate for Def. : Mr. P.K. Nayak

Advocate for Pet/Ap. : Mrs. Sujata Jena

Judgement :

ORISSA HIGH COURT: CUTTACK Writ Appeal (Civil) No.36 of 2013 In the matter of an appeal under Article 4 of the Orissa High Court Order, 1948 read with Clause 10 of the Letter Patent Constituting the High Court of Judicature at Patna. -----
Urmila Das Appellant -versus State of Odisha and others For appellant : For respondents : Respondents M/s. Sujata Jena, G.B. Jena and P. Dash M/s. P.K. Das, H.B. Dash and, A.C.B. Das (For Opp. No.6) PRESENT: THE HONOURABLE THE CHIEF JUSTICE SHRI AMITAVA ROY AND THE HONOURABLE DR. JUSTICE B.R.SARANGI Date of hearing: 13.08.2014| Date of judgment : 19.08.2014 Dr. B.R.Sarangi, J.This appeal challenges the order of the learned Single Judge dated 7.1.2013 in W.P.(C) No.22553 of 2011.

2. The factual backdrop is that an advertisement bearing notification No.225 dated 19.02.2009 was floated by the C.D.P.O., Mahanga, respondent no.5, vide Annexure-1 inviting applications for filling up of a post of Anganwadi Worker which

related to Hansadia Mundasahi Additional Anganwadi Centre, Mulabasanta Grampanchayat 2 under Mahanga Block. The said Mundasahi Additional Anganwadi Centre was created taking some area of Hansadia and Kuhunda, which is within the Kuhunda Gram Panchayat. Pursuant to that advertisement, appellant and Respondent No.6 had applied for the post. The candidature of the applicant was rejected on the ground that she was No.coming under the service area where the centre was located. Consequently, respondent no.6 having satisfied the requirements was engaged as Anganwadi Worker, vide notification dated 15.02.2009, Annexure-2.

3. Being aggrieved by the engagement order of respondent no.6, the appellant filed a Writ Petition before this Court bearing W.P.(C) No.775 of 2010 which disposed of by this Court on 25.03.2010 directing her to prefer an appeal before the Sub-Collector, Cuttack within fifteen days and also directing the Sub-Collector to dispose of the said appeal within two months of filing thereof after affording reasonable opportunity of hearing to the parties. In compliance thereof, the appellant did prefer an appeal before the SubCollector but the same was transferred to the Additional District Magistrate, Cuttack who had jurisdiction over the matter. The same was registered as Anganwadi Appeal No.27 of 2010. The Addl. District Magistrate after hearing the matter rejected the claim of the appellant, inter alia, on the ground that the Additional Anganwadi Centre in question had been opened on geographical basis of the Gram 3 Panchayat in question and that the appellant being an outsider of the service area of Anganwadi Centre, was No.eligible to be engaged.

4. Against the said order of the Additional District Magistrate, Cuttack, W.P.(C) No.22553 of 2011 was filed by the appellant before this Court. The learned Single Judge who heard the Writ Petition, dismissed the same holding that there was no error in the order of the Addl. District Magistrate having accepted the residential certificate of respondent no.6 issued by the concerned Tahasildar which was never challenged by anybody as per Miscellaneous Certificate Rules while disposing of the Appeal and declined to interfere with the same.

5. The present appeal has been filed with new grounds that the appellant was working as an Education Volunteer at E.C.C.E. Centre under Mahanga Block which was being managed by the D.I. of School, Salipur and her engagement was also approved by the then D.I. of School, Salipur as per order No.6230 dated 30.11.2004 vide Annexure-5. It is stated that since the Addl. Anganwadi Centre at Mundasahi had been formed taking some area of Anganwadi Centre of Hansadia and Kuhunda and the E.C.C.E. Centre of Hansadia Mundasahi covered the centre area of Mundasahi Additional Anganwadi Centre, the appellants application could No.have been rejected as she was eligible to be considered for the post applied for as per letter No.IV- 4 ICDS-3/10/10729/WCD dated 16.06.2010 of the Government of Orissa, in WCD Department, vide Clause(ii) of that letter.

6. Clause-ii of the said letter dated 16.06.2010 reads as follows: An ECCE worker can be considered for selection as AWW provided that she had worked as ECCE worker in that particular village.

7. Mrs. Sujata Jena, learned counsel for the appellant, strenuously urged that since the appellant had worked as an Education Volunteer in the E.C.C.E. Centre and her appointment as ECCE Worker was approved by the then D.I. of Schools as evident from Annexure-5, she should have been engaged as the Anganwadi Worker for the Centre in question.

8. Mr. P.K. Nayak, learned counsel for Respondent No.6 seriously disputes such contention of learned counsel for the appellant and referring to Annexure-8 states that the condition as to qualification itself stated that an E.C.C.E. Worker could No.be considered for selection as Anganwadi Worker unless she worked as an E.C.C.E. worker in that particular village. Therefore, no benefit could be extended to an Education Volunteer in view of such circular. Accordingly, the appellants case was justly considered for appointment as Anganwadi Worker.

9. Mr. P.K. Muduli, learned Addl. Standing Counsel for the State submits that Education Volunteers working under the E.C.C.E. 5 Centre were No.eligible to get the benefit under the circular dated 16.06.2010 vide Annexure-8. Therefore the

ground stressed upon by the appellant being a novelty, her claim can No.be favoured with.

10. Upon hearing learned counsel for the parties and considering of the materials available on record, it appears that the appellant has been taking different stands at different points of time endeavoring to be considered for engagement as Anganwadi Worker in respect of Hansadia Mundasahi Anganwadi Centre. Reliance on Government order dated 16.06.2010 vide Annexure-8 is of no help to the appellant. Admittedly, she was working as an Education Volunteer in an E.C.C.E. Centre. The circular, Annexure-8 dated 16.06.2010, is only applicable to an E.C.C.E. worker provided she has worked as such in the village of Anganwadi Centre for consideration for selection of Anganwadi Worker. Admittedly, the appellant has No.worked as E.C.C.E. worker in that particular village and therefore, she was No.entitled to get any benefit of the circular dated 16.06.2010 vide Annexure-8.

11. In such facts and circumstances, the appellants case was rightly No.considered for selection as Anganwadi Worker in respect of Hansadia Mundasahi Anganwadi Centre pursuant to advertisement, Annexure-1. Therefore, the judgment of learned Single Judge rejecting the claim of the appellant on the ground of residential certificate as well as subsequent plea with regard to the experience 6 earned/gained by her as Education Volunteer in E.C.C.E. Centre would No.make her eligible to be considered for engagement as Anganwadi Worker. We dismiss the Writ Appeal. .. Dr.B.R.Sarangi, J.Amitava Roy,C. J.I agree. .. Amitava Roy,C. J.Orissa High Court, Cuttack The 19th August, 2014/Jagdev

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com