

Urmila Devi Vs. Department of Women and Child Development

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Court : Delhi

Decided On : May-23-2014

Judge : Gita Mittal

Appellant : Urmila Devi

Respondent : Department of Women and Child Development

Judgement :

\$~15 to 18 * IN THE HIGH COURT OF DELHI AT NEW DELHI + LPA3862014
Date of decision:

23. d May, 2014 % URMILA DEVI Through: Appellant Mr.Varun Prasad, Adv. versus DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT Respondent Through: Ms.Raavi Birbal, Adv. + LPA3872014 RAJ BALA Through: Appellant Ms.Varun Prasad, Adv. versus DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT Respondent Through: Ms.Raavi Birbal, Adv. + LPA3882014 BANARAS GODARA Through: Appellant Mr.Varun Prasad, Adv. versus DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT Respondent Through: Ms.Raavi Birbal, Adv. + LPA3892014 RAM CHANDRI Appellant Through: Mr.Varun Prasad, Adv. versus DEPARTMENT OF WOMEN AND CHILD DEVELOPMENT Respondent Through: Ms.Raavi Birbal, Adv. CORAM: HON'BLE MS. JUSTICE GITA MITTAL HON'BLE MS. JUSTICE DEEPA SHARMA GITA MITTAL, J.

(ORAL) C.M.No.9042/2014 in L.P.A.No.386/2014, C.M.No.9044/2014 in LPA No.387/2014 C.M.No.9046/2014 in LPA no.388/2014 C.M.No.9048/2014 in LPA no.389/2014 (for condonation of delay) Having regard to the nature of the applications, the counsels for the parties are orally heard. For the reasons mentioned in the applications, the delay in filing the appeals is condoned. The applications are allowed. C.M.No.9041/2014 in L.P.A.No.386/2014 C.M.No.9043/2014 in LPA No.387/2014 C.M.No.9045/2014 in LPA no.388/2014 C.M.No.9047/2014 in LPA no.389/2014 (for exemption) Exemption is allowed subject to just exceptions. Applications are disposed of. L.P.A.No.386/2014, LPA No.387/2014, LPA no.388/2014 and LPA no.389/2014 1. These writ petitions challenge a judgment dated 12th February, 2014 whereby the learned Single Judge has rejected the writ petitions filed by the respondents herein.

2. The petitioners are all anganwadi workers who were employed under the scheme of the Central Government known as Integrated Child Development Service Scheme which was announced in the year 1975. The dates on which the petitioners were engaged as Anganwadi Workers are as follows: Workmen 1.

2. 3.

4. 3. Ms.Urmila Devi Ms.Banaras Godara Ms.Raj Bala Ms.Ram Chandri Date of Joining 27.10.1987 12.04.1980 06.08.1986 23.08.1990 The petitioners pressing a claim for promotion to the post of Supervisor raised industrial disputes which were referred by the Government of NCT of Delhi to the Industrial Tribunal on the following terms of reference:

Whether the workmen are entitled to be promoted to the post of Supervisor, if so, and what relief they are entitled to and what directions are necessary in this respect?.

4. It is undisputed that the petitioners were appointed on regular basis and have been working uninterruptedly ever since their appointment on the project. It is urged on behalf of the petitioners that even though the respondents have created 120 posts of temporary Supervisor, other workers have been temporarily employed in the post in the year 2007-2008 whereas the petitioners have been

denied appointments. The petitioners submit that they are also entitled to the promotion as Supervisor in the pay scale of Rs.4500-7000 after completion of fifteen years of service along with all consequential benefits.

5. The Tribunal had framed two issues, the first being as to whether the claim of the petitioners had been properly espoused by the Union which issue was found in favour of the petitioner. The second issue was as per the terms of reference. On the second issue, the Tribunal held that the promotion is a condition of service and age relaxation restricted to 15 years only for anganwadi workers was void under section 23 of the Contract Act, 1872 as the same was against the public policy. It was held by the Tribunal that the petitioners were entitled for age relaxation for their full period of service as anaganwadi workers which would render the workers liable for promotion to the post of Supervisor (Women). The Tribunal had ignored the case of the respondent that the appointment to the post of Supervisor had to be in terms of the Recruitment Rules, 2007; that the post of Supervisor was a direct recruitment post and selections thereto were effected at that time by the Staff Subordinate Service Selection Board. Prior to 2004, the selections were effected on the basis of personal interview conducted by the Selection Committee for which candidates were called through employment exchange. The respondents had specifically set up the case that the recruitment rules prescribed a limit for the post of supervisor as 27 years which in the case of anganwadi workers was relaxable subject to minimum relaxation of 15 years only. As per the rules, reservation of 25% of total post of Supervisor (Woman) was provided for such anganwadi workers who were matriculates and also fulfilled the said requirements.

6. Aggrieved by the directions made by the Tribunal, the present respondents filed the Writ Petition (C) Nos.728/2013, 729/2013, 730/2013 and 732/2013 against the four petitioners.

7. These writ petitions raised a common issue of law and fact which were dismissed by the common judgment dated 12th February, 2014 which has been assailed before us. Mr.Varun Prasad, learned counsel for the petitioner has contended that the award of the Tribunal holding that the restriction of age

relaxation to 15 years being violative of Section 23 of the Contract Act as it was opposed to public policy, cannot be faulted and deserves to be upheld. It is urged that for this reason, the judgment of the learned Single Judge cannot withhold scrutiny in the present appeals.

8. It is undisputed before us that the petitioners laid no challenge to the Recruitment Rules, 2007 which provide not only the eligibility conditions but also prescribe the method of recruitment. These rules clearly prescribe the age limit of 30 years for direct recruits which was relaxable in the case of anganwadi workers for the period they had worked on the post under a Government institution subject to a maximum of 15 years. Thus, in case an anganwadi worker met the essential educational and other qualifications, then they were entitled to be considered for appointment to the direct recruitment post of supervisor upto the age of 45 years.

9. The learned Single Judge has placed reliance on the pronouncement of the Supreme Court in (2007) 10 SCC260 entitled Rajasthan Public Commission vs. Kaila Kumar Paliwal and Another to hold that recruitment has to be made in terms of the rules in vogue. The learned Single Judge has also found that the Tribunal exceeded its jurisdiction and enlarged the scope of the reference in holding that the clause of age relaxation in recruitment rules was unconscionable. The claim made by the workmen was premised on the recruitment rules and the reference by the appropriate government set out the boundaries of the consideration by the Industrial Tribunal. It has been rightly held that the Tribunal exceeded its jurisdiction. For all these reasons we find no merit in these writ petitions which are hereby dismissed.

10. So far as the grievance of the anganwadi workers that they would stagnate on the same post with the same scale without any channel of promotion or financial upgradation is concerned, we find that in para 13 of the judgment, the learned Single Judge has granted liberty to the petitioners to approach the respondents for appropriate relief and remedy. It is directed that as and when the respondents are approached by the petitioners in this regard, the respondents shall expeditiously consider the requests of the petitioner and pass appropriate orders thereon. GITA MITTAL, J DEEPA SHARMA, J MAY23 2014 rb

