

Before J. S. Khehar & S. D. Anand, JJ.

SURINDER KAUR,—Petitioner

versus

STATE OF PUNJAB & OTHERS,—Respondents

C.W.P. No. 5760 of 2005

22nd March, 2007

Constitution of India, 1950—Art. 226—Challenge to appointment of respondent-Anganwari worker—Petitioner unmarried daughter & respondent 4 daughter-in-law of village—Petitioner having experience of more than 8 years whereas respondent 6 years—Executive instructions on the subject provide that in case of equal merit preference to daughter-in-law of village shall be given and in case of availability of more than one trained Anganwari worker candidate having larger experience shall be preferred—Petitioner an unmarried daughter of village having more experience than respondent—Aspect of experience would have priority consideration in rules—Petition allowed—Respondent’s appointment quashed—Mandamus issued to appoint petitioner as Anganwari worker.

Held, that instruction No. 5 pertaining to experience categorically provides that “while appointing Anganwari Workers the experience of Anganwari Worker/Bal Sewika if available, shall be preferred upon all the candidates subject to the condition that she fulfils the requisite educational qualification and condition regarding residence for appointment as Anganwari Worker. In case of availability of more than one trained Anganwari Worker/Bal Sewika, then the candidate having most experience shall be preferred”. In its wisdom, the Competent Authority categorically indicated in the rule aforementioned itself that the aspect of experience would have priority consideration. The plea that a daughter-in-law of the village shall have *ipso facto* priority over an unmarried daughter of the village, even if the former has less experience than the latter, is plainly denuded of merit. The petitioner & also respondent No. 4 have equal academic qualifications. The petitioner is unmarried daughter of the village; while respondent No. 4 is daughter-

in-law of the village. However, the priority tilts in favour of the petitioner in view of the fact that she has larger experience (of more than 8 years) as Anganwari Worker; as against respondent No. 4 who has experience of about 6 years in that capacity.

(Para 8)

Vikas Bahl, Advocate, *for the petitioner.*

B. S Chahal, A.A.G., Punjab, *for respondents No. 1 to 3.*

K. S. Dadwal, Advocate for respondent No. 4.

S. D. ANAND, J.

(1) The petitioner and also respondent No. 4 were both candidates for appointment as Anganwari Worker in village Behram. The petitioner is unmarried daughter of the village; while respondent No. 4 is daughter-in-law of the village. On the recommendation of the Gram Panchayat of village Behram, respondent No. 4 was appointed. The petitioner's grievance is that she being more meritorious and more experienced deserves the appointment aforementioned and the appointment of respondent No. 4 deserves to be invalidated when examined on the touchstone of the instructions regarding appointment of Anganwari Workers and Helpers.

(2) As against it, the stand taken up by the respondents (respondent No. 4 included, though she preferred to file an independent written statement as against joint written statement filed by official respondents No. 1 to 3) is that respondent No. 4 was preferred for appointment in view of the fact that she was daughter-in-law of the village and she was as meritorious as the petitioner. There is a commonness of stance taken up by the official respondents and the non-officials respondents.

(3) For easy appreciation of controversy, the relevant instructions (pertaining to marital status and experience) are extracted as under :

1. "Anganwari Workers : _____
2. Age : _____
3. Residence : _____

4. Marital Status : In case equal academic merit, the daughter-in-law of the Village shall be preferred upon the unmarried daughter of the Village.
5. Experience : While appointing Anganwari Workers the experience of Anganwari Worker/Bal Sewika if available, shall be preferred upon all the Candidates subject to the condition that she fulfills the requisite educational qualification and condition regarding residence for appointment as Anganwadi Worker. In case of availability of more than one trained Anganwari Worker/Bal Sewika, then the Candidate having most experience shall be preferred. Likewise, the Candidate having an experience of atleast 5 years as Anganwari Helper shall be given preference and in case of availability of experienced Anganwari Worker/Bal Sewika and Helpers, then in that Situation Anganwari Worker/Bal Sewika shall be given preference.”

(4) Examined on the touchstone of the instructions quoted above the following position emerges from the pleadings and also the material placed on the file by the parties ;

(5) The petitioner is unmarried daughter of the village ; while respondent No. 4 is daughter-in-law of the village. Both are Matriculates. As evident from a conjunctive perusal of Annexures P2 to P4, the petitioner has experience of more than 8 years. It may be noticed, in the context, that certification Annexure P2 (issued by the Indian Youth Welfare Council) is to the effect that the petitioner had undergone the training of Anganwari in the year 1983 and had passed written as well as practical examinations. Annexure P3 is another certification issued by the President, State Child Welfare Council, Punjab to the effect that the petitioner had undertaken training of Anganwari in the year 1985. The certification Annexure P4 issued by Child Development Project Officer, Banga, District Nawanshahar, is to the effect that the petitioner had functioned as Anganwari Worker in the relevant block at Anganwari Centre No. 1 from the period 26th February, 1982 to 31st December, 1990. Thus, the petitioner is proved to have experience of more than 8 years as Anganwari Worker. As against it, the averment made by the private respondent/respondent No. 4 in the written statement is to the effect that she has experience of six years as Anganwari Worker.

(6) Learned counsel for respondent No. 4 reiterated the validity of appointment of respondent No. 4 by relying upon instruction No. 4 which provides that in case of equal merit, the daughter-in-law of the village shall be preferred over an unmarried daughter of the village.

(7) The plea advocated by the learned counsel for respondent No. 4 is devoid of force. Instruction No. 4 cannot be appreciated in isolation from the other instructions. Instruction No. 5 pertaining to experience categorically provides that “while appointing Anganwari Worker the experience of Anganwari Worker/Bal Sewika if available, shall be preferred upon all the Candidates subject to the condition that she fulfills the requisite educational qualification and condition regarding residence for appointment as Anganwari Worker. In case of availability of more than one trained Anganwari Worker/Bal Sewika, then the Candidate having most experience shall be preferred.”

(8) In its wisdom, the Competent Authority categorically indicated in the rule aforementioned itself that the aspect of experience would have priority consideration. The plea that a daughter-in-law of the village shall have *ipso facto* priority over an unmarried daughter of the village, even if the former has less experience than the latter, is plainly denuded of merit. In the present case, the petitioner and also respondent No. 4 have equal academic qualifications. As already indicated, the petitioner is unmarried daughter of the village; while respondent No. 4 is daughter-in-law of the village. However, the priority tilts in favour of the petitioner in view of the fact that she has larger experience (of more than 8 years) as Anganwari Worker; as against respondent No. 4 who has experience of about 6 years in that capacity.

(9) In the light of foregoing discussion, this petition shall stand allowed. The impugned order dated 15th February, 2005 (Annexure P7), passed by respondent No. 3 appointing respondent No. 4 as Anganwari Worker, shall stand quashed. A writ, in the nature of mandamus, is issued directing the official respondents to appoint the petitioner as Anganwari Worker. As the decision of this litigation turns on interpretation/appreciation of instructions, the parties shall bear their own costs of the cause throughout.

R.N.R.