
there can be no two opinions that when the Court so directs or feel the necessity, original record must be made available.

(7) Not only that may writ petitions are filed for quashing the orders of the inferior tribunals where a pure question of law has to be determined. There is no controversy of facts. We feel that it will be totally unnecessary in such like cases to call for their records, particularly as noticed by the learned Single Judge when petition was coming up for hearing after many years. In some cases this may tantamount to staying the proceedings even when the Court had not so directed, if the records are summoned automatically. We, therefore, hold that unless the Bench while issuing the rule nisi direct that record should be produced and summoned, there is no necessity for summoning the record automatically. To that extent, therefore, the order of the learned Single Judge is modified.

(8) For these reasons, we allow the appeal and modify the order of the learned Single Judge in the terms stated above.

J.S.T.

Before G.S. Singhvi and M.L. Singhal, JJ

KASHMIR KAUR AND ANOTHER, – *Petitioners*

versus

UNION OF INDIA AND OTHERS, – *Respondents*

CWP No. 12403 of 97

26th August, 1997

Constitution of India, 1950 – Arts. 226, 227 and 335 – Selection to post of Anganwari workers – Petitioners belonging to S.C. and S.T. seek appointment to post of Anganwari workers on the basis of reservation for S.C. and S.T. in matters of public service – Held, guidelines prefer selection of helpless/widow and handicap woman irrespective of fact whether she belongs to general category or Scheduled Caste/Scheduled Tribe – Post of anganwari worker not borne of any cadre, not an appointment but engagement for a honorarium.

There are no rules governing the appointment of Anganwari workers. Anganwari workers are not borne on any cadre. Post of Anganwari workers carries a fixed honorarium. Clause II of guidelines Annexure p-2 covers widow/helpless and handicapped women. In our opinion it also covers the selections of women who belong to Scheduled Castes, Scheduled Tribes and backward classes etc. Any widow/helpless and handicapped woman is to be preferred for the post of Anganwari worker irrespective of the fact whether she belongs to general category or Scheduled Castes/Scheduled Tribes and backward classes.

(Para 2)

Further held that article 335 of the Constitution of India thus enjoins upon the State to take into consideration the claims of the members of the Scheduled Castes and Scheduled Tribes in the matters of appointment to public service Anganwari workers is not an appointment but is only an engagement on a

fixed honorarium. Posts of Anganwari workers are not borne on any cadre.

(Para 2)

Ashok Devgan, Advocate; for the petitioners

JUDGMENT

M.L. Singhal, J.

(1) This is a petition under Articles 226/227 of the Constitution of India whereby petitioners Kashmir Kaur and Harjit Kaur have prayed to this Court for the issuance of a writ in the nature of Certiorari for quashing the appointments of respondents 5 to 7 to the posts of Anganwari workers. They have also prayed for the issuance of a writ in the nature of mandamus directing respondents 1 to 4 to consider and select the petitioners for the post of Anganwari workers keeping in view the claim of Scheduled Castes and Scheduled Tribes quota envisaged in the Constitution of India providing for reservation to Scheduled Castes and Schedule Tribes in matters of employment to public service. It is averred by them that respondent 3 has issued directions to all the Child Development Project Officers of District Amritsar and District Ferozepur laying down guidelines for the selection and appointment of Anganwari workers by them. While laying down these guidelines, no direction has been given by the District Programme Officer, Amritsar to keep in view the reservation of posts in public service in favour of Scheduled Castes and Scheduled Tribes and, therefore, to that extent those guidelines are of no effect and are unconstitutional. Petitioners are Scheduled Castes. They applied for the posts of Anganwari workers in the category of Scheduled Castes candidates. Apart from being Scheduled Castes, they fall in clause II of guidelines Annexure P 2 which lays down that preference should be given to widows/helpless and handicapped women while selecting Anganwari workers. Petitioners are poor and belong to Scheduled Castes. They deserve to be selected for the post of Anganwari workers. Instead respondents 5 to 7 were selected for the posts of Anganwari workers. They belong to general category and are affluent. Respondents 5 to 7 managed to secure selection to the posts of Anganwari workers because they belong to resourceful and influential families. Respondents 1 to 4 did not take into account comparative merits of the candidates. Qualification of the candidates was not considered nor any other instruction was observed while selecting Anganwari workers as given in guidelines/instructions Annexure P.2.

(2) There are no rules governing the appointment of Anganwari workers. Anganwari workers are not borne on any cadre. Post of Anganwari workers carries a fixed honorarium. Clause II of guidelines Annexure P-2 covers widows/helpless and handicapped women. In our opinion it also covers the selections of women who belong to Scheduled Castes, Scheduled Tribes and backward classes etc. Any widow/helpless and handicapped woman is to be preferred for the post of Anganwari worker irrespective of the fact whether she belongs to general category or Scheduled Castes/Scheduled Tribes and backward classes.

Article 335 of the Constitution of India lays down that the claim of the members of the Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with the affairs of the Union or of a State. (Article 335 of the Constitution of India thus enjoins upon the State to take into consideration the claims of the members of the Scheduled Castes and Scheduled Tribes in the matter of a appointment to public Service. Anganwari workers is not an appointment but is only an engagement on a fixed honorarium. Posts of Anganwari workers are not borne on any cadre.

(3) Nothing has been brought to our notice by the learned counsel for the petitioners in support of this averment in the writ petition that respondents 5 to 7 are not helpless women. People belonging to general category can also be poor while people belonging to Scheduled Castes and Scheduled Tribes can be well off.

(4) For the reasons given above, this writ petition fails and is dismissed.

J.S.T.

Before Amarjeet Chaudhary, ACJ & V.S. Aggarwal, J.

JOGINDER SINGH – *Petitioner*

versus

STATE OF PUNJAB AND OTHERS – *Respondents*

CWP No. 477 of 97

7th November, 1997

Punjab Police Rules, 1934 – RI.12.21 – Discharge of Police Constable – Competent authority reaching a conclusion that the Constable can never prove an efficient police officer – Issuance of any show cause notice before discharge – Held, not required.

Held, that the contention of the petitioner that the impugned order of discharge is punitive and violative of principles of natural justice cannot be accepted for the simple reason that principle of natural justice is not an omnibus which can be boarded by everyone everywhere. Each case has to be decided on its own merit and on its facts and circumstances. The initial enrolment of the petitioner was based on the forged document which by implied admission of the petitioner, was to be so and he concealed the facts from the Punjab School Education Board, obtained duplicate Matriculation Certificate with modified date and also misled the higher authorities while filing appeal against the order of discharge by attaching the modified Matriculation certificate etc. Thus, there were repeated instances of concealment besides using of forged documents and these were the facts well within the knowledge of the petitioners and the sequence of events and consistent conduct of the petitioner leave no doubt that the competent authority rightly came to the conclusion that the petitioner can never be proved to be an efficient Police Officer and he was rightly discharged without