



Central Administrative Tribunal

Jammu Bench, Jammu

Hearing through video conferencing

Order Pronounced on : 19.08.2020

Order Reserved on : 10.08.2020

OA No. 061/235/2020

Hon'ble Dr. Bhagwan Sahai, Member (A)
Hon'ble Mr. Rakesh Sagar Jain, Member (J)

Varsha Sharma Age 20 years D/o Parshotam Lal, R/o
Khawas, Solki, District Rajouri.

.....Applicant

(Advocate: Mr. Yaseen Choudhry)

Versus

1. Union Territory of Jammu & Kashmir through its
Commissioner/Secretary to Govt. Social Welfare
Department, Civil Secretariat, Jammu.
2. State Mission Director, Jammu
3. District Programme Officer ICDS, Rajouri
4. CDPO ICDS Project Bhudal

5. Kamla Devi W/o Thaljeet Sharma, Village Keri Tehsil
Khawas, District Rajouri.

.....Respondents

(Advocate: Mr. Amit Gupta, AAG)

O R D E R

Mr. Rakesh Sagar Jain, Member (J):

1. The present O.A. has been filed by applicants Varsha Sharma under Section 19 of Administrative Tribunal Act, 1985 seeking the following reliefs:-
 - (i) Quashment of order dated 22.12.2018 bearing No. POR/ICDS/2018/1740-42 passed by respondent No. 3 (District Programme Officer, ICDS, Rajouri) whereunder Private respondent No. 5 has been engaged against the post of Anganwari worker at Ward No. 5 Panchayat Khawas, Tehsil Budhal, District Rajouri illegally and in violation of rules and norms pertaining to selection and engagement of anganwari worker and by way of backdoor engagement ignoring the superior merit and qualification of the petitioner and after issuance of the engagement order of the petitioner.
 - (ii) Directing the respondents to not disturb the petitioner who is working since 2018 after the issuance of the engagement order in view of the vacant post of Smt. Satya Devi, who was promoted as Supervisor and also to direct the official respondents No. 3 & 4 to release the honorarium of the

petitioner from 2018 till date and issue all necessary items for Aanganwari Centre.

- (iii) Restraining the official respondents No. 3 & 4 from allowing the private respondent No. 5 to join as Anganwari worker in pursuance of the order impugned having been passed in violation of selection rules and norms and against the merit position.

2. Case of applicant is that she was appointed as Anganwari worker in Anganwari Centre, Khawas Ward No. 5 under ICDS Project Budhal vide order dated 22.12.2018. It is the further case of applicant that on the post of anganwari worker at anganwaricentre at Ward No. 5 Panchayat Halqa Khawas falling vacant, respondent No. 3 without adopting due process of law appointed respondent No. 5 in the aforementioned Halqa vide impugned order dated 22.12.2018. Accordingly, the applicant has challenged the order dated 22.12.2018 pertaining to the appointment of the respondent No. 5 on a number of grounds.
3. Mr. Amit Gupta, learned AAG appeared for respondents and submitted that the matter pertains to Anganwari workers, as such, this Tribunal has no jurisdiction to try the case and placed reliance on judgement dated 07.12.2006 of the Hon'ble Apex Court in Appeal (Civil) 4953-4957 of 1998 titled State of Karnataka v/sAmeerbi.
4. We have heard and considered the arguments of the learned counsel for applicant and learned AAG for the respondents and gone through the material on record.

5. Learned counsel for applicant submitted that as per settled law, an ad hoc or temporary employee cannot be replaced by another ad hoc or temporary employee but such adhoc or temporary employee must be replaced by a regularly selected employee and placed on reliance on Anil Kumar v/s State of Haryana decided by the Hon'ble High Court of Punjab and Haryana vide order dated 13.06.2000, Amreli Municipality v/s Gujarat Pradesh Municipal decided by Hon'ble High Court of Gujarat vide order dated 09.07.2004, State of H.P. v/s Suresh Kumar Verma decided by Hon'ble Apex Court vide order dated 24.01.1996, Krishan Kumar v/s Union Territory of Chandigarh decided by Hon'ble High Court of Punjab and Haryana vide order dated 02.12.2002 and SWP No. 2443/2018 titled Jameela Bi v/s State of J&K decided by Hon'ble High Court of J&K vide order dated 28.11.2018.

6. On the question of jurisdiction of the Tribunal to try the case pertaining to Anganwari workers, the Hon'ble Apex Court in Appeal (Civil) 4953-4957 of 1998 titled State of Karnataka v/sAmeerbi wherein application was filed by aganwari workers clearly held that the Tribunal has no jurisdiction to entertain the application filed by respondents (anganwari workers). It has been observed by the Hon'ble Apex Court in case of Ameerbi (supra) that:-

“We are concerned herein with only one question, viz., whether the respondents are holders of any civil post. We are, having regard to the materials record, of the view they are not.

Keeping in view of the facts and circumstances of this case, we are of the opinion that the Tribunal has no jurisdiction to

entertain the application. The appeals are allowed accordingly.
No costs.”

7. In view of the settled law, as per, the case of Aamebi (supra), we are of the opinion that this Tribunal has no jurisdiction to hear the present O.A. The O.A. is accordingly disposed of. No costs.

(Rakesh Sagar Jain)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

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