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WP-23802-2022

IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ASHISH SHROTI

ON THE 9<sup>th</sup> OF FEBRUARY, 2026WRIT PETITION No. 23802 of 2022*RADHA RATHORE**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Yogesh Chaturvedi - learned counsel for the petitioner.

Shri K.S. Tomar- learned Government Advocate for the  
respondents/State.

Shri Somnath Seth- learned counsel for respondent no.4.

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ORDER

1. The petitioner is aggrieved by order dated 12/09/2022 (Annexure-P/1), whereby her appeal challenging the appointment of respondent no.4 on the post of Aaganwadi Sahayika has been dismissed. The petitioner has further prayed for a direction to the respondents to grant her additional marks for her age and to appoint her on the post in question.

2. The facts necessary for decision of this case are that an advertisement was issued on 11/08/2020 inviting applications for appointment on the post of Aaganwadi Karyakarta/Aaganwadi Sahayika/Mini Aaganwadi Sahayika for various Aaganwadi Centres in District-Morena & Sheopur. For purposes of this case, we are concerned with the post of Aaganwadi Sahayika for Ward No.13, Aaganwadi Centre



13/2, Housing Colony, Bhind.

3. The petitioner, respondent no.4 as also others applied for the aforesaid post. After scrutiny of applications, the provisional select list was published on 30/09/2020 (Annexure-P/5), whereby the following position emerged:

Name of candidate (s)	Marks allotted
Bhavana Shukla	77
Manoj (respondent no.4)	69
Sadhana	68
Seetu	67
Juli	64
Radha Rathore (petitioner)	63

4. It is thus, seen that one Bhavna Shukla was placed at serial no.1 while the petitioner was placed at serial no.6 in the provisional select list. Being aggrieved by her non-selection, the petitioner submitted objection to the selection of Smt. Bhawana Shukla stating that she is not the resident of Ward No.13 and is, therefore, not eligible for appointment on the post. The petitioner also claimed 10 marks towards her being unmarried lady of more than 30 years of age. The objection was considered by the District Level Grievance Redressal Committee. Her objection with regard to eligibility of Smt. Bhavna Shukla was accepted and she was disqualified for appointment. However, the petitioner was denied 10 marks towards her being unmarried lady of more than 30 years of age, on the ground that as on 01/01/2020 she had not completed 30 years of age. Accordingly, final select list was published on 19/01/2022 (Annexure-P/7) and the respondent no.4, being at serial no.1 of merit list, was appointed as Aaganwadi Sahayika on



01/02/2022 (Annexure- P/8).

5. Being aggrieved by the appointment of respondent no.4, the petitioner filed an appeal before Collector, Bhind. She again claimed 10 marks towards her being unmarried lady of more than 30 years of age and also raised objection to the eligibility of respondent no.4 on the ground that she is not the resident of Ward No.13. Both her grounds were repelled by the Collector. Based upon the BPL card, it was held that respondent no.4 is the resident of the same ward. Regarding 10 marks, the Collector held that the requisite age criteria is required to be satisfied as on 01/01/2020 and on this date the petitioner had not completed 30 years of age and therefore, the petitioner is not entitled to additional 10 marks. The appeal was accordingly dismissed. Challenging this order, the present petition has been filed.

6. Learned counsel for the petitioner argued that the date of 01/01/2020 is fixed only for purposes of determining the minimum and maximum age of the candidate. However, the said date is not prescribed for allocation of 10 bonus marks for being unmarried lady of 30 years of age. He, thus, submitted that respondents erred in denying the benefit of 10 bonus marks to the petitioner. He submitted that if 10 marks are allocated to the petitioner, she would secure 73 marks and would march over all the other candidates and would secure first position in the merit list and would be entitled for appointment. In support of his submission, he placed reliance upon the judgment of the Division Bench of this Court in the case of *Renu Vishwakarma Vs. Tulsi Vishwakarma & others* reported in *2019(3) M.P.L.J. 51* and judgment of the Coordinate Bench in the case of *Renu Devi Vs.*



*Commissioner, Chambal Division, Morena & others* reported in 2016(4) *M.P.L.J. 223*.

7. On the other hand, learned Government Advocate as also learned counsel for respondent no.4 supported the impugned order. As per their submission, the age requirement for appointment on the post in question is required to be seen as on 01/01/2020. It is their case that admittedly the petitioner was not 30 years of age as on 01/01/2020 and, therefore, was not eligible to get 10 bonus marks. Learned counsel for respondent no.4 also argued that during the pendency of this petition, the petitioner has been married on 03/05/2023 and is now residing in Ward No.35, Jamuna Nagar, Bhind. As per his submission, since the petitioner is not residing in Ward No.13, she is now not eligible for appointment on the post in question. Learned counsel for the respondents, thus, prayed for dismissal of the petitioner.

8. Considered the arguments and perused the record.

9. The facts which are not in dispute in this case are that the petitioner as also respondent no.4 are the contestants for appointment on the post of Aaganwadi Sahayika for Ward No.13, Aaganwadi Center No.13/2, Housing Colony, Bhind. It is also not in dispute that if the petitioner satisfies that she was more than 30 years of age and is unmarried, she would be entitled to 10 bonus marks as per the policy. It is further not in dispute that the petitioner's date of birth is 12/07/1990 and as on 01/01/2020 she had not completed 30 years of age but on the date of submission application for appointment, she had crossed 30 years of age.



10. The guidelines issued by the Women and Child Development Department on 10/07/2003 have been placed as Annexure- P/2. The applicability of these guidelines is not disputed by either of the parties. Clause-ब of the circular deals with the appointment of Aaganwadi Sahayika. Clause-ब-1 provides for minimum and maximum age of the candidate and reads as under:-

“ब-1 आंगनवाड़ी सहायिका की नियुक्ति हेतु अर्हताय :-

आगनवाड़ी हेतु चयनित की जाने वाली की निम्नानुसार अनिवार्य अहताए होनी चाहिये-

(1) आवेदिका की न्यूनतम उम्र 18 वर्ष एवं अधिकतम उम्र 45 वर्ष होना चाहिये।

आंगनवाड़ी सहायिका के लिये जिस केलेण्डर वर्ष में चयन किया जाना हो, उस केलेण्डर वर्ष में 1 जनवरी को आवेदिका की उम्र 18 वर्ष से कम एवं 45 वर्ष से अधिक नहीं होना चाहिए।”

11. Thus, as per the aforesaid clause a candidate is required to be more than 18 years and less than 45 years of age as on 1st January of the year in which the selection is being made. Further, Clause-ब-2 provides for allocation of marks under various heads which reads as under:-

“ब-2 आंगनवाड़ी सहायिका के नियुक्ति के मापदण्ड (योग्यता सूची)

चयन समिति द्वारा आंगनवाड़ी केन्द्रवार योग्यता सूची (मैरिट लिस्ट) तैयार की जायेगी। मैरिट सूची तैयार करने हेतु अधिकतम 100 अंक निम्नानुसार दिये जायेंगे -

1. अनु०जाति/अनु०जनजाति की महिला के लिए 10 अंक
2. गरीबी रेखा के नीचे रहने वाले परिवार की महिला के लिए 10 अंक,
3. विधवा/परित्यक्ता/तलाकशुदा/30 वर्ष से अधिक आयु की अविवाहित महिला के लिए 10 अंक



4. पांचवी में 40 प्रदेश तक 30 अंक एवं 40 प्रतिशत से अधिक  
अंक पर प्रत्येक 2 प्रतिशत पर 1 अंक  
5. आठवी कक्षा या उससे अधिक शैक्षणिक योग्यता होने पर  
10 अंक”

12. It is, thus, seen that the date of 1st January is prescribed only for purposes of Clause-ब-1 (prescribing minimum and maximum age) while no such date is prescribed for purposes of Clause-ब-2 (allocation of marks under various heads). In other words, for allocation of marks there is no cut-off date prescribed. Thus, for purposes of Clause-ब-2 for allocation of marks, the last date for submission of application has to be taken as cut-off date. Meaning thereby, for securing marks under various heads under Clause-ब-2, the candidate should satisfy the requirement as on the date of submission of application.

13. The Collector in his impugned order has held that since the petitioner had not completed 30 years of age as on 01/01/2020, she would not be entitled to 10 marks on account of her being unmarried lady of 30 years of age. However, the said interpretation of Clause- ब-2 given by the Collector is not in consonance with the scheme. If this interpretation is accepted, then even the widow/deserted/divorcee lady would also be given marks only if she was so as on 1st of January of the year in which selection is being made. As seen from clause-ब-1, the date of 1st January is fixed only for purposes of minimum and maximum age of the candidate. Such stipulation of 1st of January is not there in Clause ब-2. Thus, incorporating 1st of January as the cut-off date for purposes of Clause ब-2 is violating the scheme of the circular.



14. It is settled in law the suitability and eligibility of a candidate is to be seen as on the last date for submission of candidature unless a specific date is prescribed for the purpose. This has been so held by Apex Court in the case of *M. V. Nair (Dr) vs. Union of India* reported in (1993)2 SCC 429:

"9. .... It is well settled that suitability and eligibility have to be considered with reference to the last date for receiving the applications, unless, of course, the notification calling for applications itself specifies such a date."

15. Thus, since there is no cut-off date prescribed for applicability of Clause 2, the eligibility of the candidate is to be seen as on the date of her submitting the application. Admittedly on this date, the petitioner has crossed the age of 30 years and, therefore, entitled to get 10 marks under Clause 2(3) of the circular.

16. Learned counsel for respondent no.4 vehemently argued that during the pendency of this petition, the petitioner has got married and is not residing in Ward No.13. It is his submission that residence in same ward is a condition precedent for appointment on the post and, therefore, the petitioner is not qualified for appointment on the post. The petitioner's counsel, however, disputes this fact and submitted that the petitioner is residing in the same ward. Even otherwise, such a submission of the learned counsel is not acceptable. The eligibility of the candidate is required to be seen as on the date of selection and the change in circumstances subsequently, during the pendency of litigation, would not disqualify her. Admittedly, on the date of selection in question, she was very much residing in Ward No.13 and was eligible for the post.



17. The Division Bench judgment in the case of *Renu Vishwakarma* (*supra*) can be profitably referred on this issue. The Division Bench held thus:

"13. We have bestowed our anxious consideration on the arguments advanced on behalf of the parties. The sole issue that has cropped up for consideration, as to whether the subsequent cancellation of BPL certificate of the present appellant after filing of her application for appointment on the post of Anganwadi Sahayika, would be relevant for consideration of her case in the selection. Undisputedly, on the date of filing of the application form the appellant was in possession of a valid BPL certificate and, therefore, she was awarded 10 extra marks towards BPL category by the selection committee. However, on the objection of the writ petitioner, her 10 marks were deducted on the basis of the order passed by the Tehsildar on the report of the Patwari without giving any notice or affording an opportunity of hearing to the husband of the petitioner. The said order dated 4-4-2018 passed by Tehsildar, Chitrangi, District Singrauli has been set aside by the Sub-Divisional Officer, Chitrangi by order dated 10-8-2018, which has been brought on record as Annexure-A/2. The said order has attained finality, as the revision filed against the said order has also been withdrawn by the writ petitioner, vide order dated 17-1-2019 which is evident from Annexure- A/5 filed along with I.A. No. 933/2019."

18. Considering the aforesaid, the impugned order dated 12/09/2022 (Annexure-P/1) passed by the Collector, District- Bhind (M.P.) is found unsustainable in law and is, accordingly, set-aside. It is held that the petitioner is entitled to get 10 marks on account of her being unmarried lady of 30 years of age as on the date of submission of her application. Accordingly, she would get more marks than any other candidates and would be entitled for appointment on the post in question.





19. Consequently, order dated 01/02/2022 whereby the respondent no.4 was appointed in question is also set-aside. The respondent authority is directed to pass necessary order in favour of the petitioner for her appointment on the post in question. Let needful be done within a period of 90 days' from the date of submission of the certified copy of this order.

20. With the aforesaid observations, this writ petition is disposed off.

**(ASHISH SHROTI)**  
**JUDGE**

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