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**Government of Jammu and Kashmir**  
**In the court of Additional Commissioner, Jammu**  
**[with the powers of Divisional Commissioner, Jammu]**

**In the matter of :**

File	Date of institution	Date of decision
Revision(2019-20)	29.05.2019	25.11.2021

1. Nisha Devi D/o Sh. Rishi Kumar W/o Vishal Zutshi R/o Vill. Chinote-B Tehsil Bhaderwah District Doda.

**( Petitioner)**

**Versus**

1. Deputy Commissioner, Doda.
2. District Programme Officer, ICDS Project Doda.
3. Child Development Project Officer, Bhaderwah.
4. Simpu Devi W/o Sh. Gyaneshwar Dutt R/o Chinote Bhaderwah.

**( Respondents)**

**In the matter of:-**Revision petition against the order No. 57-58/ARA dated 11.05.2019 passed by Deputy Commissioner, Doda in appeal File No. 06/Appeal/DC titled "Simpu Devi V/s Nisha Devi" illegally, arbitrary and contrary to the records/factual position the petitioner was declared ineligible for the post of Anganwari worker in Anganwari Centre Chinote-B; Prayer for setting aside the same.

**ORDER**

The petitioner has filed a revision petition against order No. 57-58/ARA dated 11.05.2019 passed by Deputy Commissioner, Doda in appeal File No. 06/Appeal/DC titled "Simpu Devi V/s Nisha Devi" illegally, arbitrary and contrary to the records/factual position; the petitioner herein was declared ineligible for the post of Anganwari worker in Anganwari Centre Chinote-B. The petitioner has challenged the order dated 11.05.2019 on the following grounds:-

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- (i) That in the year 2018 one Nowsheen Iqbal who was working as Anganwari worker in Anganwari centre Chinote-B resigned from the said post and the petitioner submitted her application for engagement as Anganwari worker against the aforesaid post which had fallen vacant due to resignation since 03.06.2018. The respondent No. 3 (Child Development Project Officer, Bhaderwah) submitted the case to respondent No. 2 (District Programme Officer, ICDS Project Doda) vide communication dated 04.08.2018 for the grant of approval for engagement of petitioner as Anganwari worker in Anganwari Centre Chinote-B. The respondent No. 2 approved the same on 06.08.2018 and in pursuance to that the petitioner was engaged as Anganwari Worker for the aforesaid post vide order No. ICDS/Bhad/Estt-2018/370-71 dated 05.09.2018.
- (ii) That the concerned authorities duly verified the documents of the petitioner and after scrutinization of the same found the petitioner eligible and accordingly the petitioner was allowed to join. It is apt to point out herein that petitioner continued to live in village Chinote even after her marriage as the mother of the petitioner is suffering from multiple ailments. The father of the petitioner has executed Will Deed on 13.03.2018 by virtue of which 05 Marlas of land at village Chinote and also two rooms were given to the petitioner.
- (iii) That the petitioner despite her marriage continued to reside at Chinote-B and is resident of Chinote-B and her name is also figuring in the voter list of Chinote-B at S. No. 43. The BDO Bhaderwah has also certified that the petitioner is bonafide resident of Chinote-B.
- (iv) That the respondent No. 4 (Simpu Devi) filed an appeal before Deputy Commissioner, Doda against the engagement of the petitioner and the said respondent without verifying the records has allowed that appeal by virtue of the impugned order dated 11.05.2019 directing the respondent No. 2 (District Programme Officer, ICDS Project Doda) to issue fresh advertisement for the aforesaid post. The Deputy Commissioner, Doda not only directed

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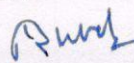
for issuance of fresh advertisement but also declared the petitioner ineligible for the post in question which is illegal & arbitrary.

- (v) That the only reason given in the impugned order is that the marriage of the petitioner was solemnized at Vasakdehra Bhaderwah while before her engagement and as such the petitioner not eligible to be engaged in Anganwari Centre Chinote-B. That her husband is basically from Vasakdehra Bhaderwah but petitioner never resided there as even after the marriage the petitioner continued to stay at Chinote-B and is also having property which was given by her father too much before her engagement.
- (vi) That the impugned order is required to be set aside as the same has been passed without giving adequate opportunity of being heard to the petitioner. The only dispute before Deputy Commissioner, Doda was with regard to the determination of the date of marriage of the petitioner the ample proof substantiated the same fact was placed before Deputy Commissioner, Doda that she is the resident of Chinote-B but the same was not considered and even impugned order is contrary to the mandate of Government Order 07-SW of 2010 dated 18.01.2018 which envisages the Deputy Commissioner while considering the appeal should conduct an enquiry but in the instant case no such enquiry was conducted with regard to residential status of the petitioner.
- (vii) That the residential status of the petitioner was fully substantiated not only on the basis of the documentary record placed before the appellate court but also Memorandum/ Resolution was submitted by the inhabitants of Chinote-B to respondent No. 3 (Child Development Project Officer, Bhaderwah) wherein they have stated that the petitioner is discharging her duties with zeal and enthusiasm and they are satisfied with the services of the petitioner, the resolution of the local inhabitants certified that petitioner is residing at Chinote-B.

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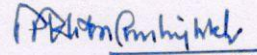
The Respondent No. 4 (Simpu Devi) through her Counsel has submitted objections to the revision petition as under:-

- (i) That the revision petition is not maintainable on the grounds that no advertisement was issued for the post of Anganwari Worker in Anganwari Centre Chinote-B.
- (ii) That the petitioner has no right on the post as she has been married to another village situated at Vasakdehra Bharderwah and she is not residing at the place/ village where the Anganwari Centre is located.
- (iii) That the Respondent No. 4 (Simpu Devi) has filed a writ petition SWP No. 23 of 2019 titled Simpu Devi Vs State of Jammu & Kashmir and others and the same was disposed off by the Hon'ble High court with the directions that *"In view of the submission made, this writ petition can be disposed of at this stage, with a liberty to file an appeal before the Deputy Commissioner concerned. If any such appeal is filed, the Deputy Commissioner concerned shall dispose of the same within 15 days from the date of filing of the appeal by the petitioner."*
- (iv) That thereafter respondent No. 4 (Simpu Devi) filed an appeal in pursuance to High Court Order dated 11.01.2019 before the Court of Deputy commissioner Doda. The Deputy Commissioner, Doda allowed the appeal and passed order dated 11.05.2019 with the directions that Nisha Devi has been engaged as Anganwari Worker in the said Anganwari Centre on temporary basis without issuance of Advertisement Notification, which is against the norms/ rules in this behalf and directed Programme Officer, ICDS, Doda to issue fresh advertisement notification for the engagement of eligible female candidate as Anganwari Worker in Anganwari Centre Chinote-B, of ICDS Block Bharderwah within a period of sixty days from the date of receipt of said order.

  
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I have gone through the memo of the appeal, objections filed by the respondents, record available on the file and heard the parties in detail and finally came to the conclusion that the petitioner (Nisha Devi) has been engaged as Anganwari Worker in violation of norms/ rules without issuance of Advertisement Notification. The Deputy Commissioner Doda has rightly directed the Programme Officer, ICDS, Doda to issue fresh advertisement notification for engagement of eligible candidate as Anganwari worker in Anganwari Centre Chinote-B, ICDS Block Bhaderwah.

The order dated 11.05.2019 passed by the Deputy Commissioner, Doda (Dr. Doifode Sagar Dattatray, IAS) is in accordance with law and as such requires no interference of this court. Hence the order of Deputy Commissioner Doda dated 11.05.2019 is upheld and revision petition is dismissed. Reader shall provide the copy of order to the parties. File be consigned to records after due completion.



(P. R. Katoch), JKAS <sup>25.11.21</sup>

Additional Commissioner, Jammu

[With the powers of Divisional Commissioner]

Jammu

No: - 801/Addl.Com./R/105

Dated: - 25.11.2021

