

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 5323 OF 2008
(Arising out of SLP(C)No.18954 OF 2005)

LATA ... **APPELLANT(S)**

:VERSUS:

CHIEF EXECUTIVE OFFICER AND ORS. ... **RESPONDENT(S)**

ORDER

Despite service of notice, nobody appears for the respondent Nos. 3 & 4.

Leave granted.

This appeal is directed against the judgment and order dated 11.4.2005 passed by the High Court of Judicature at Bombay, Nagpur Bench, Nagpur, in Writ Petition No. 3305/2005 whereby and whereunder the writ petition filed by respondent No.4 herein was allowed in part.

The State of Maharashtra issued an advertisement for appointment to three posts of Anganwadi Sevika, Rohinkhed in the year 2003. An interview was held on 20.7.2003. The appellant admittedly obtained the highest marks amongst the candidates of Village Rohinkhed. However, as no order for sanction of the said post was issued she was not appointed.

In the year 2004, another advertisement was issued for one post of Anganwadi Sevika. Both the appellant and the private respondents applied for appointment in the said post. In the interview held pursuant to the second advertisement, respondent No.4 obtained more marks than the appellant.

It appears that two offers of appointment were issued on 30.6.2004; one in terms of sanction letter dated 30.6.2004 appointing respondent No.3 herein as an Anganwadi Sevika at Rohinkhed and another in terms of sanction letter dated 28.6.2004 appointing the appellant herein as Anganwadi Sevika in the Additional Anganwadi Centre, Rohinkhed.

On the said basis and keeping in view the performance of the appellant in the selection process held in the year 2003, another offer of appointment was issued in favour of the appellant on 30.6.2004 itself.

The respondent No.4 filed a writ petition before the High Court questioning the said order of appointment. By reason of the impugned judgment, the High Court allowed the writ petition in part directing:

“In the result, writ petition deserves to be partly allowed. We allow writ petition partly and quash and set aside the appointment of respondent No.4 made to the post of Anganwadi Sevika and we direct the respondent No.1 and 2 to fill in the post of Anganwadi Sevika which has become vacant by issuing fresh advertisement and after considering the claims of all eligible

candidates.”

The High Court in arriving at the said decision opined that respondent No.4 (writ petitioner in the High Court) had secured higher marks than the appellant. Learned counsel for the appellant would submit that the High Court committed a serious error in passing the impugned judgment in so far as it failed to take into consideration that as the appointment of respondent No.3 as Anganwadi Sevika, Rohinkhed was made in the regular post, the appointment of the appellant herein was made for the additional Anganwadi Centre, Rohinkhed.

Our attention was also drawn to the fact that the offer of appointment was issued in favour of respondent No.3 in terms of the sanction letter dated 30.6.2004, whereas the appellant has been appointed in terms of sanction letter dated 28.6.2004.

If the order of sanction dated 28.6.2004 was passed on the basis of the interview held pursuant to the advertisement issued in the year 2003, wherein the appellant obtained the highest marks amongst the candidates of Village Rohinkhed, we are of the opinion that respondent No.1 cannot be said to have committed any error in issuing the offer of appointment in favour of the appellant in respect of the additional Anganwadi Centre, Rohinkhed.

The impugned judgment, therefore, cannot be sustained and it is set aside. The appellant's services has since been terminated. She may be reinstated in

service. The appeal is allowed accordingly. No costs.

.....J
(S.B. SINHA)

.....J
(CYRIAC JOSEPH)

**NEW DELHI,
AUGUST 29, 2008.**