**Before The Hon'ble State Administrative Tribunal At Shimla**

OA No.:\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Application Under Section 19 of the Administrative Tribunals Act, 1985

Shimla Applicant

\_\_\_\_\_ Through, Advocate

Respectfully Sheweth :

1. Particulars of the Applicant

As given in the Memo of Parties.

2. Particulars of the Respondents

As given in the Memo of Parties.

3. Impugned Order:

That the applicant is aggrieved by the impugned order issued by the respondent No. 3, (Annexure A-1) whereby he has directed the respondent No. 4 to sponsor the name of some other candidate for the post of Gram Panchayat Sahayak at Gram Panchayat Satog and terminate the services of the applicant arbitrarily and illegally.

The said impugned order is arbitrary, illegal, malafide, violative of the Constitutional Rights and natural justice and issued in colourable exercise of power.

4. Jurisdiction

That the applicant declares that the subject matter is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation:

That the applicant further declares that the application is within the limitation.

6. Facts of the Case:

6.1 That the applicant submits that \_\_\_\_\_\_\_

6.2 That the respondent state vide its notification No. \_\_\_\_\_ dated \_\_\_\_\_ has authorised Gram Panchayat Assistant's post to the respondent No. 4 Panchayat, to be filled in by the concerned Gram Pradhan. (Annexure A-2)

6.3 That now the respondent No. 3 vide letter No. \_\_\_\_\_ dated \_\_\_\_\_ (A-1) has informed the respondent No. 4 that while appointing the Gram Panchayat Assistants the special care be taken that the candidate for the above post should not be a father, grand father, in-laws, uncle, son, daughter, grand-son, brother, nephew, brother-in-law or sister-in-law, wife, sister, son-in-law of any of the officials/members of the Panchayat.

**GROUNDS**

6.4 That feeling aggrieved by such an arbitrary, malafide, discriminatory and illegal actions of the respondents, the applicant seeks the indulgence of this Hon'ble Tribunal on the following grounds amongst others, which may be taken at the time of arguments, each one of which is without prejudice to and independent of others :-

(a) That the impugned order A-1 issued by the respondent is arbitrary, malafide, illegal, ultra vires, against the Articles 14 and 16 of the Constitution of India, dehors the rules and regulations and against the natural justice.

(b) That the applicant has been selected and appointed in accordance with the provisions laid down in A-2 after following the due process. The provisions of A-2 cannot be over-ridden by an executive order A-1 and the A-1 is thus ultravirus. Moreover, no such embargo can be imposed by the respondent No. 2 or 3 on the appointment of the applicant as it clearly violates the provisions of Articles 14 and 16 of the Constitution of India.

(c) That the respondents are estopped due to their own act, deed and conduct. The principle of the Promissory Estopple applies against the respondents.

(d) That the impugned order is against the well settled principles of the law as laid down by the Hon'ble Supreme Court and this Hon'ble Tribunal in catena of cases.

7. Reliefs Sought:

That the applicant, therefore, prays that your Lordship be pleased to issue an appropriate writ, orders or directions to grant the following reliefs in favour of the applicant in the interest of justice:-

(a) Quash the impugned order issued arbitrarily, malafidely and illegally by the respondents;

(b) Direct the respondents to permit the applicant to continue in service as Gram Panchayat Sahayak and send the applicant for the training in accordance with the provisions of A-2;

(c) Direct the respondents to produce all the relevant documents for perusal by this Hon'ble Tribunal;

(d) Allow the cost of this O.A.;

(e) Pass such other order or directions as deemed fit and proper in favour of the applicant.

AND FOR THIS ACT OF KINDNESS, THE HUMBLE APPLICANT AS IN DUTY BOUND, SHALL EVER PRAY.

8. Interim Orders, If Prayed:

It is, therefore, most respectfully prayed that during the pendency of the OA the operation of A \_\_\_\_\_ may kindly be stayed and the respondents be restrained from terminating the service of the applicant and the respondents be further restrained from selecting and appointing any other candidate in place of the applicant.

9. Details of Remedies Exhausted:

That the applicant submits that since the matter being of an urgent nature, there is no other alternative speedy and efficacious remedy available to him except to approach this Hon'ble Tribunal.

10. Matter not Pending with any Other Courts Etc:

That the applicant further declares that the matter regarding which this application has been made, is not pending before any court of law or any other Authority or any other bench of this Hon'ble tribunal.

11. Particulars of Court Fees:

Court fees worth Rs 50/- is attached herewith.

12. Details of Index:

An index containing the details of the documents to be relied upon is enclosed herewith.

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

OA No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Affidavit in support of OA under Section 19 of the Administrative Tribunals Act 1985.

I,\_\_\_\_\_\_, do hereby solemnly, affirm and declare as under :-

1. That the accompanying O.A. has been prepared under my instructions.

2. That the contents of paras 1 to 12 of the accompanying application are correct and true to the best of my knowledge.

3. That I further solemnly affirm and declare that this affidavit of mine is correct and true to the best of my knowledge and no part of it is false and nothing material has been concealed therein.

Affirmed at Shimla this the \_\_\_\_\_\_.

Deponent

**BEFORE THE HON'BLE STATE ADMINISTRATIVE TRIBUNAL AT SHIMLA**

OA No.:\_\_\_\_\_\_ of 2004

Applicant

Versus

Respondents

**Index**

|  |  |  |  |
| --- | --- | --- | --- |
| Sl No | Annx | Particulars of Documents | Pages |
| 1 |  | Court Fees | [I] |
| 2 |  | Memo of Parties | 1 |
| 3 |  | OA | 2 |
| 4 |  | Affidavit |  |
| 5 | A-1 | Impugned Order dt \_\_\_\_ |  |
| 6 | A-1/T | Translation of A-1 |  |
| 7 | A-2 | Notification dt \_\_\_\_ |  |
| 8 | A-2/T | Translation of A-2 |  |
| 9 | A-3 |  |  |
| 10 | A-4 |  |  |
| 11 |  | Power of Attorney |  |

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate

**Annexure A-2/T**

No. \_\_\_\_\_\_

Office of Block Development Officer

Development Block \_\_\_\_\_\_, \_\_\_\_\_\_; \_\_\_\_\_\_

Dated: \_\_\_\_\_\_\_\_\_\_\_\_.

To:

Pradhan Gram Panchayat\_\_\_\_\_\_\_

Subject: Directions regarding appointment of Gram Panchayat Sahayak

In compliance to the Director, Rural Development and Panchayati Raj Department vide his office letter No. \_\_\_\_\_\_ dated \_\_\_\_\_\_, you are hereby informed that you will take special care while appointing Gram Panchayat Sahayak that the candidate is not father, grand father, in-laws, uncle, son, daughter, grand-son, brother, nephew, brother-in-law or sister-in-law, wife, sister, son-in-law of any of the officials/members of the Panchayat and should not be aged more than 58 years of age.

Assistant Commissioner (Development)

& Block Development Officer

Development Block \_\_\_\_\_\_.

Endst No. \_\_\_\_\_\_ dated \_\_\_\_\_\_

Copy forwarded to: Gram Panchayat & Development Officer, Gram Panchayat \_\_\_\_\_\_\_ with the instructions that he will send the information to the undersigned after confirming from the Parivar Register.

Assistant Commissioner (Development)

& Block Development Officer

Development Block \_\_\_\_\_\_.

True Translation

**Annexure A-2/T**

True Translation

Government of \_\_\_\_\_\_

Rural Development Department

No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_\_.

Notification

1.0 WHEREAS after the bringing into force the Himachal Pradesh Panchayati Raj Act, 1994, in accordance with the 73rd amendment of the Constitution, the process the grant more powers and responsibilities to the Panchayati Raj Organisations, and as a result of this the powers and responsibilities of 15 departments have been transferred to the Gram Panchayats, because the number of the Gram Panchayats is far more than the availability of the Gram Panchayat and Development Officials in the Department and therefore the Panchayat Assistant Scheme to grant the services of part-time persons to the Gram Panchayats was under consideration.

1.1 Therefore, the Government of Himachal Pradesh has taken this decision that 50% of the Gram Panchayats notified by the Government of Himachal Pradesh, which comes to 1461, one Gram Panchayat Sahayak can be appointed on contract on the following conditions:-

I. The minimum qualification of the candidate should be matriculate.

II. The candidate should belong to the same Gram Panchayat.

III. For this work, the panchayat will appoint only such mature person who has knowledge of working in that area and does not consider this only as a means of employment.

IV The minimum age limit will be 18 years.

V. Such person only should be appointed as Assistant who can spare time to do the work of that Panchayat.

2.0 The Selection Process and Appointment.

2.1 For the appointment of Gram Panchayat Assistant, the concerned Gram Panchayat will ask for the applications from the eligible candidates and this notice will be displayed on the notice board of the Gram Panchayat.

2.2 The application should be on the plain paper stating educational qualification and other qualifications etc. The selection and appointment of the Gram Panchayat Sahayak will be done by the concerned Gram Panchayat.

2.4 If the selected candidate does not report on duty within 10 days, then the next candidate in the Waiting List will be selected.

2.5 The candidate appointed under this scheme will be part-time employee of the concerned Gram Panchayat and he will be known as the Gram Panchayat Sahayak of the concerned Gram Panchayat.

2.6 The selected candidate will be issued appointment letter by the Pradhan of the concerned Gram Panchayat. One copy of the appointment letter will be forwarded to the concerned Block Development Officer for his record.

2.7 The appointment of the Gram Panchayat Assistant will be on the basis of contract initially for one year, which will be renewed from time to time by the concerned Gram Panchayat after evaluating the work proficiency of the candidate.

2.8 The Gram Panchayat will have complete administrative control over the Gram Panchayat Assistant. In case of any negligence/irregularity in duty, the Gram Panchayat will take disciplinary action against him. If the work of the Gram Panchayat Sahayak is not found satisfactory, then his services will be terminated by the Gram Panchayat after giving him opportunity of personal hearing.

2.9 The Gram Panchayat Assistant appointed under this scheme will work for 3 hours in the office of the Gram Panchayat. The time schedule will be fixed for him by the concerned Panchayat.

3.0 The Duties of Panchayat Assistant

The Gram Panchayat Assistant will carry on the work and responsibilities given by the concerned Gram Panchayat, like:-

1. Assistance in the Work of Gram Panchayat and Development Officer

(a) In preparation of records of Gram Panchayat.

(b) In maintenance of the Pariwar and Marriage Register.

(c) In issuance of Birth-Death, IRDP or marriage certificates.

(d) In collection of fees/penalty and in giving the copies of the decisions etc taken by the panchayat in accordance with the rules.

(e) In writing the proceedings of the Gram Panchayat/Sabha meetings and in giving the copies of resolutions of these meetings to the concerned.

(f) In preparation of voter lists during the elections.

II. Assistance of the

(a) In issuance of Ration cards.

(b) In issuance of summons in civil/criminal matters to the concerned.

II (a) In other matters entrusted by the Gram Panchayat.

3.2 Every Gram Panchayat Assistant will inform to the to the concerned Gram Panchayat & Development Officer the works given under the provisions of Panchayati Raj Act. The Gram Panchayat & Development Officer will also inspect the work of the Gram Panchayat Assistant.

4.0 Honorarium

4.1 Every Gram Panchayat, where the Gram Panchayat Assistant has been appointed , will give to the Gram Panchayat Assistant an honorarium of Rs. 600/- per month out of the aid given by the state government.

4.2 Where the Panchayat feels that the services of the Gram Panchayat Sahayak are to be taken for more time, then the concerned panchayat will pay him more from its own resources.

5.0 Training

5.1 The Gram Panchayat Assistants appointed by the Gram Panchayat will be given minimum 30 days training by the Panchayati Raj Department.

5.2 If any selected candidate does not participate in the training given by the Panchayati Raj Department, then the appointment letter issued by the concerned Gram Panchayat will be canceled.

6.0 Selection of Gram Panchayats for appointment of Gram Panchayat Assistants

6.1 Every Panchayat Samiti will keep in view that the Gram Panchayats under where the Gram Panchayat and Development Officers are appointed, the decision to appoint the Gram Panchayat Assistants will be taken under this scheme only for those Panchayats the population of which is less and will be given to the Panchayat Sahayaks. Such Development Blocks where the number of panchayats is odd, ie; 39, 41, 59, 61 etc. two panchayats will be handedover to the Gram Panchayat & Development Officers, and in one Panchayat the Gram Panchayat Assistant will be appointed. Under no circumstances the number of Panchayats should be more than half of the total number of the Panchayats. For the appointments of Gram Panchayat Sahayaks, the union of the Panchayats will be only once and under no circumstances will not be changed or repeated under any circumstances.

7.0 Removal of Difficulties

If there is any difficulty in implementation of this scheme, the state government will make appropriate amendments to remove the same.

By the order of

(Rajawat Sangh)

Commr.-cum-Secretary (Rural Development)

Government of Himachal Pradesh

Endst No. \_\_\_\_\_\_ dated \_\_\_\_\_\_.

Copy to:-

1. All Gram Panchayat Pradhans, Development Block \_\_\_\_\_\_.

2. All Gram Panchayat & Block Development Officers, Development Block, \_\_\_\_\_\_

Assistant Commissioner, (Development) & Block Development Officer, \_\_\_\_\_\_

True Translation

**Annexure – A**

High Court of \_\_\_\_\_\_\_\_\_\_\_\_

Appellate Side

Receipt showing Court Fees Paid : OA No :-\_\_\_\_\_\_of 2004

\_\_\_\_\_\_ Versus \_\_\_\_\_\_

|  |  |
| --- | --- |
| Particulars | Amount |
| Court Fees stamp on Memo | 50.00 |
| Petition |  |
| Enclosures |  |
| Vakalatnama | 2.65 |
| Process Fees |  |
| Others |  |
| Total | 52.65 |

Date : \_\_\_\_\_

Signature of Receiving Clerk

Before the Hon'ble State Administrative Tribunal at \_\_\_\_\_

O. A. No.: \_\_\_\_\_ of 2004

Applicant

Versus

Respondents

Court Fees Rs. 50/-

Shimla Applicant

\_\_\_\_\_\_ Through, Advocate