

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Reserve : 13.2.2008
Date of Decision :22.2.2008

+ **WP(C) No.5531/2004**

Deepak Petitioner

Versus

1. Union of India
Through Secretary
2. Commanding Officer
I.N.S. INDIA ... Respondents

And

+ **WP(C) No.6402/2004**

Vikram Petitioner

Versus

1. Union of India
Through Secretary
2. Commanding Officer
I.N.S. INDIA ... Respondents

And

+ **WP(C) No.20083/2004**

Sonu Kumar Petitioner

Versus

1. Union of India
Through Secretary
2. Commanding Officer
I.N.S. INDIA ... Respondents

Advocates who appeared in this case :

For the petitioner : Mr. Sat Pal Sharma, Advocate.

For the respondents : Ms. Preeti Dalal, Advocate

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE J.M. MALIK

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| 1. | Whether the Reporters of local papers may be allowed to see the judgment? | No |
| 2. | To be referred to Reporter or not? | Yes |
| 3. | Whether the judgment should be reported in the Digest? | Yes |

J.M. MALIK, J.

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1. This judgment shall decide three above said writ petitions as these involve same facts and identical questions of law.
2. All the three above named petitioners applied for the post of "Cook" in Indian Navy Service(in short I.N.S) where the minimum educational qualifications required for the said post was from VIIIth Class to XIIth Class. After the written and medical tests conducted by the respondents, the names of the petitioners appeared among the successful candidates for the post of Cooks. The petitioners received an order of enrollment in the Indian Navy and they were directed to report before the Commanding Officer, INS, India on 31.3.2004.

3. The petitioners appeared before the Commanding Officer, respondent no. 2 and they were again medically examined. It is not out of place to mention here that all of them had given their educational qualifications in their respective application forms as VIIIth Class. However, during enquiries conducted by the respondents, it transpired that actually they had higher educational qualifications i.e. upto XIIth pass. On this ground all the petitioners were discharged. Under these circumstances, all the petitioners have filed the above said three writ petitions separately, with the prayer that the verbal order of respondent no. 2 passed on 2.4.2004 by which the selection of the petitioners on the post of Cooks was rejected be set aside and the above said post be restored in their favour.

4. Respondents have contested the above said writ petitions. According to them the petitioners were called on 31.3.2004. The candidates are expected to fill a form IN 441, the information given in this form becomes part of their service record. In these forms the petitioners reflected / filled their qualifications as XIIth pass, thereby clearly indicating their malafide intentions that they willfully and illegally concealed their higher qualifications in the NMER entry application forms wherein they mentioned their

educational qualifications as VIIIth pass with mala fide intention of circumventing the possible elimination at the stage of initial screening process. It was pointed out that the selective amnesia on the part of candidates is willful, deliberate and amounts to declaration of false information in the application forms notwithstanding the declaration made by the petitioners in the application forms that any false information rendered by them in the application would make them liable for disqualification. It is also pointed out that as stated by the petitioner viz. Deepak in his petition that he is qualified upto class 12th in Art stream, whereas during the investigation, he revealed his highest qualifications as BA(IIInd) year. Again it was also averred that the minimum educational qualifications for the post of 'Cook' is Class Vth. The forms submitted by the office of the respondents contained an enclosure indicating the minimum qualifications for the post of Cook is Class Vth. However, during the subsequent investigation the petitioner viz. Deepak had stated that he had bought the application form from market and read the qualifications required for the post from a sign board in the shop.

5. We have heard the counsel for the parties. The record clearly reveals that all the petitioners have indubitably made

false statements in their respective application forms. The learned counsel for the petitioner laid emphasis on the point whether the above said action of the petitioners would entail extreme action taken by the respondents. He pointed out that a distinction has to be drawn between the bonafide and malafide intentions. He submitted that the petitioners belong to a backward area with uneducated families' background. Due to inadvertence and at the instructions of some employee in Indian Navy Service, the petitioners wrote the minimum qualification as 8th Class which was required for the said post. They had no malafide intention to conceal their actual qualifications. He prayed that under these circumstances they should be reinstated in the above said post.

6. We see no merit in these arguments. Although, it is true that a criterion which has the effect of denying a candidate his right to be considered for the post on the principle that he is having higher qualifications, than prescribed cannot be rational and the candidates who possessed higher qualifications should have also been considered, (see the law laid down in Mohd. Riazul Usman Gani and others Vs. District & Sessions Judge, Nagpur and others, AIR 2000 SC 919), yet, the controversy in the

present case does not swirl over this question. The main question is that the petitioners have made false declarations about their educational qualifications in their respective application forms. The application forms clearly, specifically and unequivocally stated that the following certificate would be filled in by the petitioners :

“Certificate

1. I hereby certify that the above information is true to the best of my knowledge and belief and I understand that I am liable to be disqualified, if any of the above is found to be incorrect /incomplete. I also understand that I will be attending the written, physical fitness and medical test at my own risk and will not be entitled to any claim arising thereof. All documents have been tied up firmly.”

7. It is, therefore, very easy to cull out *mens rea* on the part of all the petitioners. Every violation of truth is not only a sort of suicide in the liar, but it is a stab at the health of human society. We clap considerable significance to the argument urged by counsel for the respondent that the acts of the petitioners highlight the element of doubtful integrity in their characters, a trait, totally unacceptable in the ARMED FORCES. When Aristotle was asked what a man could gain by telling a falsehood, he replied, “Never to be credited when he speaks the truth.”

8. In the following authorities the petitioners were removed from service for making a false statement. In these cases they had suppressed the facts that the cases against them were pending before the criminal courts. In *Kendriya Vidyalaya Sangathan and others Vs. Ram Ratan Yadav*, AIR 2003 SC 1709, the State Government had withdrawn the case against the petitioner. However, this fact was suppressed. The Apex Court upheld the order of his termination from the service. In *R. Radhakrishnan Vs. The Director General of Police and others*, 2007 (12) SCALE 539, the petitioner had made a false statement in his verification roll in regard to the pendency of a case. In that case he was ultimately acquitted. His termination was upheld by the Apex Court.

9. Object of requiring information in various columns and declaration forms thereafter from the candidate is to ascertain and verify the character and antecedent to judge his suitability to enter into or continue in service. When a candidate suppresses material information and / or gives false information he cannot claim any right of appointment or continuance in service thereafter.

10. In view of the above said discussion all the writ petitions are hereby dismissed. However, the parties are left to bear their own costs.

J.M. MALIK, J.

February 22, 2008
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A.K. SIKRI, J.