

\$~

6 & 7

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

+ W.P.(C) 2170/2012

VINOD KUMAR

..... Petitioner
Through: Ms. Jyoti Singh, Sr. Adv. with
Ms. Saahila Lamba, Adv.

versus

UNION OF INDIA & ORS

..... Respondent
Through: Mr. Tushar Singh for
Mr. Jatan Singh, CGSC

AND

+ W.P.(C) 2929/2012 & CM 6307/2012

SACHIN KUMAR

..... Petitioner
Through: Mr. Rahul Verma and
Mr. Kapil Chaudhary, Adv.

versus

UNION OF INDIA AND ORS

..... Respondent
Through: Ms. Aakriti Jain for
Mr. Ankur Chhibber, Adv.

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

07.09.2012

%

Gita Mittal, J (Oral)

1. The candidatures of Vinod Kumar (petitioner in W.P.(C)
No.2170/2012) for appointment to the post of Sub-Inspector and

W.P.(C) Nos.2170/2012 & 2929/2012

pg 1 of 10

11
Sachin Kumar (petitioner in W.P.(C) No.2929/2012) for appointment to the post of Constable (GD) was rejected for non-compliance of the following instructions in the advertisement :-

“(iii) Signature of Candidate (wherever required)

Please do sign in running hand. Signature in capital letters of English shall not be accepted and your application shall be summarily rejected. Unsigned application shall also be rejected.”

2. Both the petitioners contend that they append their signatures in capital letters in usual course and official documents containing such signatures of the petitioners have been placed before this court. The respondents, however, treated the requirements of the above condition as mandatory and rejected the candidature of Vinod Kumar (petitioner in W.P.(C) No.2170/2012) after he had undergone the complete selection process and was allocated service with the CRPF however, formal joining letter was not issued. So far as Sachin Kumar (petitioner in W.P.(C) No.2929/2012) is concerned, he had also cleared the main interview in the merit list drawn on 22nd November, 2011. However, no joining letter was issued to this petitioner.

3. Both the writ petitions lay a challenge to the aforementioned conditions whereby the respondents have imposed the requirement of signatures in running hand and have treated the said condition to

be mandatory.

4. Our attention has been drawn to a judgment dated **24th February, 2012 in W.P.(C) No.1004/2012 Delhi Subordinate Services Selection Board & Anr. vs. Neeraj Kumar & Anr.** wherein a condition similar to the one in issue in this case was sought to be enforced as mandatory; which submission was rejected holding that the said stipulation by the petitioner was merely directory and not mandatory. In this regard, was held that, *"...we are of the opinion that since the identity of the candidate could be established from his photograph on the application form as well as the photograph affixed on the roll number issued to him by the petitioners, the stipulation with regard to the invalidity of an application on the ground that the applicant's signature is in block capital letters in English is merely directory and not mandatory."*

The Division Bench has noted that the purpose of the signature is for the purpose of identifying the signatory, the signature being treated as the writing of a person in a distinctive manner which is peculiar to him. For this reason, it is treated as a form of identification of the person signing. It was accordingly held that *"as observed earlier, the identity of the candidate could be established from the photograph which he was required to affix on*

13

the application form as well as from the roll number/admit card issued to him by the petitioners and the signature in capital letters would, therefore, have not been of much use for achieving the objective of verifying the identity of the candidate."

The Division Bench has also noted that even the manner of writing capital letters is distinctive and varies from person to person and consequently signatures in the capital letter may also be distinctive and peculiar to the person so signing. The bench held that, *"it so happens that this is the way in which the respondent signs normally xxx xxx It is absolutely clear that the signature of the candidate is different from the manner in which his name has been written which is entirely in block capital letters in English. "*

5. Our attention has also been drawn to the judgment of this court in ***W.P.(C) No.5334/2012 Deepak Dhankar vs. UOI & Ors.*** decided on **29th August, 2012** wherein reliance was placed on the reasoning of the Bench in ***DSSB vs. Neeraj Kumar & Ors.(supra)*** and the challenge to the rejection of candidature of the petitioner for the reason that his signatures were in capital letters was accepted.

6. We are in respectful agreement with the reasoning given in the aforenoticed pronouncements. There can be no manner of

doubt that it is not only the running handwriting of a person which would vary from person to person but also the manner of writing capital letters. In the case of **Deepak Dhankar vs. UOI & Ors.(supra)**, the court has in fact scrutinized the signatures of the petitioner finding the manner in which his signatures in capital letters were distinctive and peculiar to his style of writing.

7. Ms. Jyoti Singh, learned senior counsel for the petitioner has submitted that a personal signature is really a person's name written in a distinctive manner as a form of identification.

8. Before us, learned senior counsel for Vinod Kumar has drawn our attention to the manner in which he appends his signatures. Even though they are in capital letters however the size of the letters and the placement of the alphabets is certainly typical. The petitioner drags the lower limb of the alphabet 'D' in Vinod and ends it below the alphabet 'O'. We also find that the letters 'A' and 'R' are written without lifting of hand and suggest as if they are continuous. The letter 'U' has been placed so that it lifts into the letter 'M'. These are some of the distinctive features which would identify the signatures as belonging to the petitioner Vinod Kumar.

9. So far as Sachin Kumar is concerned, his signatures, which are in capital letters as well, also show distinctive characteristics. The

15

entire word Kumar is placed lower than Sachin. The petitioner has created a loop on the lower limb of 'S' in Sachin. The alphabet 'C' is smaller than the rest of the letters. The manner in which the alphabet 'K' is written is also distinctive.

In this background, the signatures of these two petitioners, even though in capital letters, have several distinctive features which enable establishment of the identity of the person who has affixed, the same.

10. Ms. Jyoti Singh, learned senior counsel for the petitioner has also urged that in case the petitioner was to change his signatures on the form for the purposes of fulfilling the advertisement requirements, the respondents would reject his candidature when he produced his original documents which bore his existing signatures (using capital letters) for the reason that the signatures on the original certificates (in capital letters) would not match those which he would affix in the form (in running hand) of the respondent. We find force in this submission.

A 'signature' knows of no legal definition and would derive its meaning as would be contained in dictionary definitions.

11. We may note that a 'signature' may not incorporate a person's complete first, middle and surname. Experience shows

that a signature may be merely a single letter, or initials or a mark. The definition of 'signature' as found in some dictionaries of repute and authority sheds light on this aspect.

12. In Black's Law Dictionary (6th Edn), the meaning of signatures is given as follows :-

"Signature : The act of putting one's name at the end of an instrument to attest its validity; the name thus written. A signature may be written by hand, printed, stamped, typewritten, engraved, photographed, or cut from one instrument and attached to another, an a signature lithographed on an instrument by a party is sufficient for the purpose of signing it; it being immaterial with what kind of instrument a signature is made. *Maricopa County v. Osborn*, 60 Ariz. 290, 136 P.2d 270, 274. And whatever mark, symbol, or device one may choose to employ as representative of himself is sufficient.

The name or mark of a person, written by that person at his or her direction. In commercial law, any name, word, or mark used with the intention to authenticate a writing constitutes a signature.

A signature is made by use of any name, including any trade or assumed name, upon an instrument, or by any word or mark used in lieu of a written signature.

The signature to a deed may be made either by the grantor affixing his own signature, or by adopting one written for him, or by making his mark, or impressing some other sign or symbol on the paper by which the signature, though written by another for him, may be identified."

13. The Advanced Law Lexicon (3rd Edn.,), defines a 'signature' as:-

"Signature : "The signature to a memorandum may be any symbol made or adopted with an intention, actual or apparent, to authenticate the writing as that of the signer." Restatement (Second) of Contracts S.134 (1979).

7

A person's name, initials, or symbol, used by that person to authenticate a writing. (Cyber Law)

xxx xxxx

Signature is the name of person written on a document to signify that the writing accords with his wishes or intentions. This is what is ordinarily meant by speaking of a person's "signature", but the law does not always insist upon the name of the person being written; initials or a mark intended to represent a person's name have been held to be a sufficient 'signature' by him. Further, unless a statute makes a personal signature indispensable, signature by a duly authorized agent is sufficient. [*R. v. Kent Justices*, (1873) LR 8 QB 305]

A signature, according to Greenleaf, consists both of the act of writing the party's name and of the intention of thereby finally authenticating the instrument.

In *Morton v. Copeland* (16 CB 535), MAULE, J., said, "Signature does not, necessarily, mean writing a person's Christian and surname, but any mark which identifies it as the act of the party" but the reporter adds in a note, "provided it be proved or admitted to be genuine, and be the accustomed mode of signature of the party".

Where a witness to a will is unable to write, the mark of that witness is signature. (51 Am St. Rep 121)

Signature by initials is good and valid in law.(*Re Wingrove*, 15 Jur 91)

To constitute a "signature" it is not necessary that the party should write his entire name, his mark being held sufficient; and if the signature be made by another guiding his hand with his consent it is held sufficient."

(Underlining supplied)

14. In this regard, reliance has been placed by Ms. Singh, learned senior counsel on the dictionary meaning of the expression 'signature' in the Oxford Dictionary wherein signature is defined thus :-

"Signature : (1)a person's name written in a distinctive way as a form of identification or authorization (2) the action of applying one's signature (3) a distinctive product or

18

characteristic by which someone or something can be identified"

From the reading of the above, therefore, it is evident that signatures do not need to even incorporate the entire name of the person and can include even an initial or a mark.

15. In view of the detailed reasons recorded by the Bench in **DSSB vs. Neeraj Kumar & Ors., (supra)** and the foregoing discussion, it has to be held that the requirement of respondents in the advertisements that the signatures of the candidates had to be in capital letters has to be held as directory and not mandatory. It has been noticed in **Deepak Dhankar vs. UOI (supra)** that this would be more so when the post in question is at the lower rung of the ladder.

16. So far as the challenge led in Sachin Kumar to the legality and validity and the requirements in question is concerned, given the aforenoticed observations, the challenge does not require to be gone into inasmuch as the requirement has been held to be directory. We are, therefore, not examining the same.

17. In view of the above, it is held that the failure to complete the appointment process of the petitioners on the aforenoticed ground was contrary to law. We accordingly direct the respondents to proceed with the entitlement of the petitioner Vinod Kumar to be

19

appointed to the post of Sub-Inspector and Sachin Kumar to the post of Constable (GD) in view of their respective merit positions in the respective select lists. The orders in this behalf shall be passed within a period of four weeks from today. It shall be ensured that the petitioners do not lose their positions in the merit as well as seniority etc on account of the rejection of their candidature because of the signature requirements. The respondents shall consider this aspect of the matter and mould the requirements of the training which these petitioners have to undergo accordingly so that no prejudice or loss enures to the writ petitioners.

These writ petitions are allowed in the above terms.

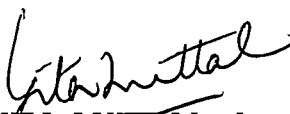
CM No.6307/2012 in W.P.(C) No.2929/2012

In view of the order passed in the writ petition, this application shall stand disposed of.

Dasti to parties.

SEPTEMBER 07, 2012

kr


GITA MITTAL, J

J.R. MIDHA, J