

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.557 of 2023

Smt. Mousumi Sen

.....Petitioner(s)

Versus

The Union of India and others

.....Respondent(s)

For Petitioner(s) : Ms. R. Purkayastha, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, Deputy SGI.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

06/09/2023

Heard Ms. R. Purkayastha, learned counsel for the petitioner and Mr. Bidyut Majumder, learned Deputy SGI for the respondents-Union of India.

2. Petitioner has participated as a UR female category candidate bearing Roll No.5601011613 for recruitment to the post of Constable (GD) in Central Armed Police Forces (CAPFs) under Advertisement at Annexure-A published in the month of October, 2022. She has qualified in Computer Based Examination, Physical Efficiency Test (PET), Physical Standard Test (PST), Medical Examination and document verification has also been done. The score sheet of the Computer Based Examination at Annexure-C indicates the final score i.e. 57.44712 obtained by the petitioner. Annexure-D is the result of Physical Standard Test (PST) and Physical Efficiency Test (PET) for Constable (GD) in CAPFs for the year 2022 in relation to the petitioner where she has been shown as 'Qualified'. Since there was an error in filling her date of birth in the online application, she has been served with a Rejection Slip dated 02.08.2023 [Annexure-G]. Her correct date of birth is 10.07.1999, but inadvertently it was filled up as 10.10.1999.

3. Ms. Purkayastha, learned counsel for the petitioner, submits that the petitioner, being a general category female candidate, has an age relaxation of 3(three) years as on 01.01.2023 beyond the age limit i.e. 18 years to 23 years prescribed under the Advertisement. It is submitted that the merit list at Annexure-I dated 20.08.2023 shows the cut-off details of female candidates selected against State/UT-wise vacancies of CAPFs. It also shows that for the State of Tripura in the UR category, there are four posts in which, one of them has been filled up and the cut-off mark is 49.66418. It is submitted that because of the error in the date of birth during filling up of online application, her candidature has been rejected, though she has qualified in all the tests i.e. Computer Based Examination, Physical Standard Test (PST), Physical Efficiency Test (PET), Medical Examination and document verification has also been done. Petitioner has submitted a representation on 21.08.2023 before the Director General, CRPF, Assam regarding rechecking of documents after submission of affidavit for correction of date of birth in SSC-GD-2022 examination. Petitioner has enclosed her Admit Card of Madhyamik Examination, PRTC, Aadhaar Card, Certificate of Birth to show that her correct date of birth is 10.07.1999, and not 10.10.1999. It is submitted that though Clause 8.6 of the advertisement states that candidates must check the correct details before submission of online application and that after submission of online application, no change/correction/modification will be allowed under any circumstances, but the present case is one of extreme hardship in which the respondents should not resort to technical objections to reject the candidature of the petitioner who belongs to female category and has otherwise qualified in all the rigorous tests conducted for recruitment to the CAPFs.

4. Learned counsel for the petitioner has submitted that this Court, in a case of *Sri Biswajit Rudra Paul v. Union of India & others* in WP(C) No.1002/2022 vide order dated 12.07.2023, has been pleased to direct the competent authority under the respondent in respect of a similar recruitment exercise for the post of Constable (GD) under the CAPFs to consider the representation of the petitioner as regards the date of birth of the said petitioner vis-à-vis admissible documents such as birth certificate issued by the Chief Registrar, Births & Deaths, Agartala Municipal Corporation, PAN card, Passport, Aadhaar Card, PRTC, , etc. It is submitted that there was an error in the date of birth in the Madhyamik certificate of the said petitioner though the date of birth issued by the Agartala Municipal Corporation was of a much prior date based on which all other documents with correct date of birth such as passport, PRTC, driving license etc. were issued. In the said case, this Court had the occasion to examine the para material provisions of Clause 12.9 and 12.10 of that advertisement. It is submitted that there is no discrepancy in the date of birth of the petitioner in any of the documents which are admissible as proof of date of birth in the present case. Therefore, respondents should be directed to consider the case of the petitioner sympathetically after due verification of all her documents and allow her appointment to the post of Constable (GD) against the unreserved vacancies existing for the State of Tripura in the CAPFs. Otherwise grave injustice would be caused to the petitioner who had competed in all the rigorous tests conducted by the respondents. Petitioner's representation has not yet been redressed. As such, she has approached this Court.

5. Mr. Bidyut Majumder, learned Deputy SGI for the respondents-Union submits that since the matter has been taken up for the first time, instructions have not yet been furnished. He has referred to Clause 8.6 of the advertisement [Annexure-A] which has earlier been referred to in this order. It stipulates that no change or correction or modification will be allowed in the online application after submission. It is submitted that in case such corrections are allowed, it would be difficult for the respondents to complete the selection exercise, as there may be errors in the case of several such candidates in the online application. The exercise for recruitment to CAPFs is at a very large scale and, therefore, the candidates should be diligent in filling up their online application form.

6. I have considered the submission of learned counsel for the parties and taken note of the relevant material particulars placed from the pleadings and the documents on record. It appears that petitioner's candidature has been rejected despite qualifying the Computer Based Examination, Physical Standard Test (PST), Physical Efficiency Test (PET) and also medical examination for the reason that there is an error in the date of birth in her online application i.e. 10.10.1999, which should be 10.07.1999 as are borne from her educational certificates such as Madhyamik Admit Card, PRTC, Aadhaar, the Birth certificate dated 27.07.1999 issued by the Department of Health & Family Welfare, Government of Tripura. These documents are enclosed to the representation of the petitioner at Annexure-K. Indeed Clause 8.6 provides that no change/correction/modification in the application shall be allowed after submission of the documents. Petitioner's participation in the tests has been provisional. During document verification, it has been found that the date of

birth reflected in the online application has a mismatch with the correct date of birth i.e. 10.07.1999. It is also evident that the petitioner has got 57.44712 marks in the computer based examination which is above the cut-off marks i.e. 49.66418 against the UR vacancies for the State of Tripura in ITBP. It further appears from the merit list at Page 63 which contains the cut-off details of female candidates selected against State/UT-wise vacancies of CAPFs, a part of the final result published by the Staff Selection Commission that there are 4(four) posts in that category and only one of them has been filled up. Learned counsel for the petitioner has also drawn the attention of this Court to the judgment dated 12.07.2023 passed in WP(C) No.1002/2022. In the said case, this Court, after taking note of the discrepancy in the date of birth in the Madhyamik Examination certificate which was issued much later in the year 2012 compared to the birth certificate issued by the Chief Registrar, Births & Deaths, Agartala Municipal Corporation in the year 1997 and other documents such as Passport, Aadhaar Card, PRTC, Driving License etc. and the provisions of Clause 12.9 and 12.10 of the advertisement of similar nature issued by the Staff Selection Commission for recruitment to the post of Constable (GD) under the CAPFs, directed the respondents to examine the case of the petitioner as regards the correct date of birth after due verification from the issuing authorities within a period of 5(five) months.

7. It, therefore, appears to the Court that the respondents should consider the representation of the petitioner in accordance with law taking into account the fact that the educational certificate and all other certificates named above showing date of birth entry do not have a mismatch except that the mismatch is in the month of the date of birth entry i.e. October (10-10-99)

instead of July (10-07-99) in her online application. It also need to be kept in mind that such candidates belongs to interior areas of states like Tripura in the northeastern region and may not have the proper assistance in submission of such online applications invited by the recruiting agencies. In case the respondents are satisfied that the error in the month of her date of birth entry in the online application is inadvertent and otherwise all admissible documents such as educational certificates of Madhyamik Examination, PRTC, Aadhaar Card, etc. show the same correct date of birth i.e. 10.07.1999, the competent authority/respondent No.5 should consider her sympathetically. Let such consideration be made on the representation of the petitioner within a period of 6(six) weeks from the date of receipt of the copy of this order.

8. The writ petition stands disposed of accordingly.

9. It is however made clear that the instant order has been passed in the facts in circumstances of this case and may not be treated as precedent in future.

10. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

Pijush

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