

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C) No.1002 of 2022

Sri Biswajit Rudra Paul, son of Sri Nepal Rudra Paul residence of Belabar,
P.O. S.D Mission, P.S. Amtali, Agartala, West Tripura.

..... Petitioner(s)

V E R S U S

1. The Union of India represented by the Ministry of Home Affairs, Government of India.
2. The Under Secretary, Staff Selection Commission, Block No.12, CGO Complex, Lodhi Road, Near JLN Stadium, New Delhi, Delhi-110091.
3. Staff Selection Commission represented by Chairman, Block No.12, CGO Complex, Lodhi Road, Near JLN Stadium, New Delhi, Delhi-110091.
4. North Eastern Regional Office, Staff Selection Commission, Gauhati represented by Regional Director, Housefed Complex, West End Block, Last Gate- Basistha Road, P.O. Assam Sachivalaya, Dispur, Gauhati-781006.
5. Director General, CRPF (Central Reserve Police Force) (Recruitment Branch) East Block-07, Level-4, Sector-01, R.K. Puram, New Delhi-110066 (Ministry of Home Affairs).

.....Respondent(s)

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

For Respondent(s) : Mr. Bidyut Majumder, DSGI.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Date of hearing and judgment : 12th July, 2023.

JUDGMENT & ORDER (ORAL)

Heard Ms. R. Purkayastha, learned counsel appearing for the petitioner and also Mr. Bidyut Majumder, learned DSGI, learned counsel appearing for the respondents.

[2] Petitioner participated in the advertisement issued in July, 2021 for recruitment to the post of Constable (GD) in Central Armed Police Forces (CAPFs), NIA, SSF and Rifleman (GD), Assam Rifles (AR). There was a mismatch in the date of birth of the petitioner in the certificate of Madhyamik Examination Board and his date of birth certificate i.e. 05.11.1994 vis-à-vis 05.11.1995. He was, however, allowed to participate in

the rally and appeared in the physical efficiency test, physical standard test and also medical examination. He got 46.6958 marks in the OBC category and was 'qualified' but his candidature was rejected by the order dated 14.10.2022 on account of the discrepancy in his date of birth in the certificate of Madhyamik Examination Board and his date of birth certificate issued by the Government of Tripura, Department of Health & Family Welfare dated 24.06.1997. Therefore, he approached this Court.

[3] The respondents have appeared and filed counter-affidavit reiterating their stand that petitioner's date of birth recorded in his Madhyamik Certificate i.e. 05.11.1994 does not tally with the date of birth certificate issued by the Government of Tripura and moreover in his online application he had also recorded his date of birth as 05.11.1995. If his date of birth is treated as 05.11.1994, he would not fulfill the age criteria since the permissible age limit with 3(three) years relaxation for OBC candidate would mean that a candidate should be born between 02.08.1998 to 01.08.2003. As such, petitioner's case cannot be considered for recruitment to the post of Constable in CAPFs.

[4] Rejoinder-affidavit has been filed by the petitioner. It is submitted that the date of birth recorded in the Madhyamik Admit Card or certificate i.e. 05.11.1994 is erroneous since it was prepared in 2012 whereas his passport, driving license, PRTC certificate, Aadhaar Card all bear the correct date of birth i.e. 05.11.1995 based upon the certificate issued by the Government of Tripura.

[5] Learned counsel for the petitioner submits that as per Clause 12.9 of the advertisement at Annexure-A, the recruiting agency has, as proof

of date of birth, enumerated 9(nine) documents. Clause 12.9 and 12.10 are therefore extracted hereunder as it has a bearing on the issue at hand.

“12.9. In addition to the Admission Certificate, it is mandatory to carry two passport size recent colour photographs, original valid Photo-ID proof having the date of birth printed on the Admission Certificate, such as :

- 12.9.1. Aadhaar Card/Printout of E-Aadhaar,
- 12.9.2. Voter's ID Card,
- 12.9.3. Driving License,
- 12.9.4. PAN Card,
- 12.9.5. Passport,
- 12.9.6. ID Card issued by University/College/School,
- 12.9.7. Employer ID Card (Govt./PSU)
- 12.9.8. Ex-Serviceman Discharge Book issued by Ministry of Defence,
- 12.9.9 Any other photo bearing ID card issued by the Central/State Government.

12.10. If the Photo Identity Card does not have the date of birth printed on it then the candidate must carry an additional original document (e.g. Matriculation Certificate, Marks Sheet issued only by CBSE/ICSE/State Boards; Birth Certificate, Category Certificate) as proof of his date of birth. In case of mismatch in the date of birth mentioned in the Admission Certificate and photo ID/Certificate brought in support of date of birth, the candidate will not be allowed to appear in the examination.”

As such, respondents may be directed to consider the case of the petitioner by verification of his birth certificate from the relevant records of the Madhyamik Examination Board, Department of Health & Family Welfare at Annexure-I issued by the Chief Registrar of Births & Deaths, Agartala Municipal Council dated 24.06.1997 and other official documents such as the passport, driving license, Permanent Resident of Tripura Certificate for taking an informed decision on his claim for appointment. It is submitted that one post of Constable was kept reserved pursuant to the interim order passed by this Court dated 24.11.2022. Therefore, dependent upon such decision, petitioner may be appointed on the post of Constable so reserved.

[6] I have considered the submissions of learned counsel for the parties. The issue involved herein is whether the case of the petitioner for appointment to the post of Constable in CAPFs ought to be rejected on

account of mismatch between the certificate issued by the Madhyamik Examination Board showing his date of birth as 05.11.1994 compared to the date of birth shown in the certificate dated 24.06.1997 issued by the Chief Registrar, Births & Deaths, Agartala Municipal Council (Annexure-I) and other documents such as passport, driving license, Permanent Resident of Tripura certificate etc. It appears that the certificate of Madhyamik Pariksha (Secondary Examination), 2012 was issued on 09.06.2012 showing the date of birth of the petitioner as 05.11.1994. The certificate of birth issued by the Department of Health & Family Welfare, Government of Tripura under the signature of Chief Registrar, (Health Officer, Registrar of Births & Deaths), Agartala Municipal Council is of 24.06.1997. It shows his place of birth as IGM Hospital, Agartala and apart from the name of his parents, the date of birth is shown as 05.11.1995 both in digits and words. The Permanent Resident of Tripura certificate has been issued on 27.10.2011 which also shows his date of birth as 05.11.1995. The petitioner has also enclosed the Aadhaar Card which shows his year of birth as 1995. The voter card also shows his date of birth as 05.11.1995. The driving license of the petitioner also shows his date of birth as 05.11.1995. The passport of the petitioner also shows his date of birth as 05.11.1995. It is true that there is a mismatch in the year of birth indicated in the Matriculation certificate/Madhyamik Pariksha (Secondary Examination), 2012 and the certificates issued by the Registrar of Births & Deaths on 24.06.1997 as also the PRTC and the passport issued on 09.08.2019.

[7] In such circumstances, keeping into consideration the conditions enumerated at Clause 12.9 and 12.10 of the advertisement issued by the Staff Selection Commission, it would be proper for the competent

authority under the respondents to consider the case of the petitioner for appointment to the post of Constable after due verification of the original documents from the issuing authorities such as, Registrar of Births & Deaths, Department of Health & Family Welfare, Government of Tripura; Office of the Sub-Divisional Magistrate, Bishalgarh, West Tripura who has issued the Permanent Resident of Tripura Certificate on 27.10.2011 and also the passport issuing authority before taking an informed decision on his claim. It needs to be mentioned herein that the petitioner ought to have taken prompt steps for correction of the year of birth indicated in his Madhyamik Pariksha (Secondary Examination), 2012 certificate if there was a mismatch compared to the birth certificate issued by the Registrar of Births & Deaths, Agartala Municipal Council as per the procedure prescribed by law and this anomaly does not continue to suffer him in his career. Since this exercise may entail detail verification, the competent authority would endeavour to take a decision in this regard within a period of 5(five) months from the date of receipt of copy of this order.

[8] The writ petition is disposed of with the aforesaid observations and directions. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH) CJ