

**HIGH COURT OF TRIPURA
AGARTALA**

Cont. Cas(C) 163/2022

Sri Rafruchai Mog

----Petitioner(s)

Versus

Sri Ajay Kumar Bhalla and ors

---Respondent(s)

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

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

HON'BLE MR. JUSTICE ARINDAM LODH
Order

07/07/2023

Heard Ms. R. Guha, learned counsel for the petitioner. Also heard Mr. B. Majumder, learned Deputy SGI appearing for the respondent-contemnors.

This is a petition filed under Section 12 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India for willful and deliberate violation of the judgment and order dated 22.08.2022 passed in WP(C) 809 of 2021.

The petitioner alongwith others, challenging the selection procedure adopted by the respondents for selection and appointment to the post of Constable (GD) in the Central Armed Police Forces (CAPF), NIA & SSF & Rifleman (GD) in Assam Rifles in so far as it debars a candidate from the reserved category from being adjusted against the general vacancy if the candidate has availed any relaxation irrespective of the fact that such relaxation is also available to the general category candidates, has filed a writ petition being WP(C) 120 of 2021 titled as *Smt. Sangita Tanti vs. Union of India and 4 ors.* alongwith other analogous writ petitions.

After hearing the arguments of both sides and on perusal of the record, this court vide its order dated 22.08.2022 had passed the following order:

“8. The subject in dispute raised in this batch of writ petitions is squarely covered by the judgment passed in Hemant Pokhriyal supra and accordingly, stands disposed of with the directions that the respondents shall appoint the petitioners against the remaining vacancies without disturbing the list of candidates till date and/or appointments already made by the respondents according to the merit list of general category candidates.

9. In view of this direction, the respondents shall prepare a revised select list accommodating the petitioners of this batch of writ petitions in the merit list of general category of candidates and appoint them against the available vacancies treating them as open competition candidates. Entire process must be completed within 2 (two) months from today.”

In pursuance to the said order dated 22.08.2022, the respondents while considering the prayer of the petitioner has detected some discrepancies regarding date of birth of the petitioner. In para 8 of the counter affidavit, the respondents have stated as under:

“8. That, in response to the statements and averments made in para 6 of the additional affidavit filed by the petitioner, I humbly submit that since filing of online Application Form to filing of Contempt Petition No 163/2022, the Petitioner has not once for a while thought to rectify date of birth in his Aadhar Card. On the contrary, he had gone through all stages of recruitment process on the basis of date of birth entered in the online Application Form. He had a chance to point out this anomaly at the time of issue of Admit Card for the written examination, but he suppressed this fact from the Commission.

In para 14 of the counter affidavit, the respondents have further stated as under:

“14. That, in response to the statements and averments made in para 12 of the additional affidavit filed by the petitioner, it is humbly submitted that Note II below paragraph 4 of the Examination Notice, stipulates that Candidates should not that only the Date of Birth and Name as recorded in the matriculation/ Secondary Examination Certificate, or an equivalent certificate will be accepted by the Commission for determining the age and name. No subsequent request for its change will be considered or granted. In the instant case, the Petitioner did not follow the stipulation and has applied with a different date of birth while applying for the post.

Further, it is submitted that the moment the Petitioner filled his date of birth in his online Application Form, the onus of responsibility lies with the Petitioner himself to authenticate the same with relevant documents. At the time of CBE, he carried with him Aadhar Card, which mentioned the same date of birth as in his Admit Card. Had it not been so, i.e. if any discrepancy found out by the concerned authority in the exam venue, then the Petitioner would not have been allowed to appear in the CBE in the first place. If the date of birth mentioned in online Application Form exceeds the crucial age limit

prescribed for UR candidates, then it is deemed that the candidate has availed age relaxation. Therefore, he cannot deny the fact that he willfully suppressed the material facts.”

During hearing learned Counsel appearing for the petitioner has admitted the said discrepancy.

In view of this, this court has tried to persuade learned counsel for the petitioner as to how the respondents could be held liable for willful violation of the order of this court. But learned counsel for the petitioner has submitted that inspite of the aforesaid discrepancy, the respondents have committed contempt, which is not at all accepted.

So, in the opinion of this court, this is not a matter of willful violation of the court’s order. The discrepancy, so arose, was only due to the laches on the part of the petitioner himself. Hence, this contempt application does not have any merit at all.

Pending application(s), if any, also stands dismissed.

JUDGE

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