

Court No. - 34

Case :- WRIT - A No. - 14289 of 2023

Petitioner :- Prem Sharma

Respondent :- Union Of India And 3 Others

Counsel for Petitioner :- Kranti Kiran Pandey

Counsel for Respondent :- A.S.G.I.,Sandeep Kumar Srivastava

Hon'ble Ajit Kumar,J.

Heard Sri Kranti Kiran Pandey, learned counsel for the petitioner and Sri Sandeep Kumar Srivastava, learned counsel for the contesting respondents.

Petitioner, who has been applicant against the post of Constable (G.D.) in Central Reserve Police Force for Selection and Examination, 2022, is aggrieved by the cancellation of the candidature of the petitioner under the order impugned dated 31st July, 2023 on the ground that year of passing of class X examination was not mentioned.

The ground taken in assailing the order is that petitioner did not have the requisite facility of computer and internet service and, therefore, he had to approach the 'Cyber Cafe'. It is submitted that very limited time was prescribed for and, therefore at times such inadvertent mistake may happen as has happened in the petitioner's case. He submits that this is not such a gross error as he has produced the requisite documents at the time of document verification. It is, therefore, submitted that a pragmatic view should be taken in the matter and petitioner's candidature should not be rejected only on the ground that some column being left over due to inadvertent mistake.

Per contra, it is argued by learned counsel appearing for the respondents that for fulfilling online application form mere instructions were prescribed for vide Annexure -1 which stipulated 14 days time per person to generate One Time Registration (OTR) as such candidate is provided the password and login ID, which he can change after he uses the login ID to access the site and if petitioner could not do in the 14 days period which is prescribed under the instructions, then his any attempt to edit the application form was barred by the instruction No.- 7 which runs as under:-

"7. Candidates are advised to fill their correct and active e-mail addresses and mobile number in the online application as correspondence may be made by the Commission/ CAPFs through e-mail/SMS."

Learned counsel appearing for the respondents has also relied upon the authorities to the effect that no subsequent change in the application form, once it is filled up by having access to online facility and successfully uploaded, is permissible. The manner and method in which corrections can be made was prescribed for and any such attempt at the stage of physical document verification cannot be permitted under any circumstances.

Learned counsel for the petitioner has placed reliance upon the judgment of Delhi High Court in the case of *Vikas Kumar Yadav v. Union of India and others* passed in Writ – C No. - 12610 of 2023 decided on 25th September, 2023, in which such a mistake having occurred at a Cyber cafe was permitted to be rectified once the candidate had made it successful to the merit list.

I have perused the judgment cited by learned counsel for the petitioner and I find that the Court had allowed the petition on facts alone and has not discussed the law laid down in various authorities of this Court and Supreme Court and the above quoted general instructions that advertisement did contain.

To quote judgment of Division Bench of this Court in **Smt. Arti Verma v. State of U.P. and others** (Special Appeal Defective No.-123 of 2014) and various judgment of Supreme Court in the cases of **Km. Archana Rastogi v. State of U.P. And others 2012 (3) ADJ 219**, **Km. Richa Pandey v. Examination Regulatory Authority & another decided on 18.02.2014**, **Ram Manohar Yadav v. State of U.P. & 3 others decided on 30.05.2013**, **Arti Verma v. State of U.P. And 2 others**, **Kanchan Bala & 172 others v. State of U.P. & 4 others**, **Jai Karan Singh and 52 others v. State of U.P. & 4 others** and **Karnataka Public Service Commission and others v. B.M. Vijaya Shankar and others reported in AIR 1992 SC 952**. It is further worth noticing that the above quote general instructions as advertisement in question contained has also not been noticed in the order of Delhi High Court.

The argument raised by learned counsel for the respondents that no subsequent change in the application form can be permitted, in my considered view, holds merit and the judgment of Delhi High Court will not be a binding precedent on the legal principle of *sub-silentio*. Besides the above, judgment is only having persuasive

value and I am not convinced with the reasons assigned in the said judgment.

Petition lacks merit and is, accordingly, dismissed.

Order Date :- 7.11.2023

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