

Court No. - 34

Case :- WRIT - A No. - 18377 of 2023

Petitioner :- Harsh Vardhan Singh

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Upendra Kumar Singh, Raksha Chauhan

Counsel for Respondent :- C.S.C., M.N. Singh

Hon'ble Ajit Kumar, J.

Heard Sri Raksha Chauhan, learned counsel for the petitioner and Sri F.A. Ansari, learned counsel for the U.P. Public Service Commission.

Petitioner claims to have applied for the post of Dental Surgeon pursuant to the advertisement issued by the U.P. Public Service Commission dated 14th June, 2023 in the ex-army men/ personnel category, however, as is alleged, due to inadvertent mistake even though he fulfilled all the columns meant for ex-army men category but due to inadvertence filled 'No' before the column 'Are you U.P. Ex-Army?'. Learned counsel for the petitioner has taken the Court to the online application form which has been brought on record as Annexure-2 to the writ petition.

This is a serious lacuna in filling up the form which cannot be permitted to be rectified at a belated stage.

From the perusal of the application form it transpires that petitioner did fill up 'No' in front of column 'Are you U.P. Ex-Army?' but in the column 'Having completed five years of service?' he marked 'Yes' and also filled up 'Yes' in the column 'Are you ECO/ SCO of the Army?' but I find that in the service duration column meant to be filled up to show as Ex-army personnel, he has not made any entry. However, it transpires that petitioner has given benefit under the category of State Government employee of U.P. for filling up 'Yes' and in that he had filled up the column with remarks: '14 days of service'.

Learned counsel appearing for the U.P. Public Service Commission submits that petitioner was overaged by one year but since he had filled up the category of Ex-Government employee, his application form was entertained.

Sri F.A. Ansari, learned counsel for the U.P. Public Service Commission has further clarified the position of Commission in the advertisement that any correction/ editing in the entries made in the application form were to be made only by the last date, which the petitioner admittedly failed to do.

Sri F.A. Ansari has further drawn the attention of the Court towards the column meant for modifying submitted application and which could have been done in the light of clause 19 of the advertisement as the entry in from of column of Ex-army service and duration could have been rectified only through O.T.R. registration. He submits that petitioner did not apply for O.T.R. registration and, therefore, it was out of question to entertain any application subsequently to allow amendment or change in the application form.

Having heard learned counsel for the respective parties, I find that petitioner has not only committed inadvertent mistake in respect of the category of Ex-army personnel but also failed to fill up the duration of service rendered as Ex-army personnel.

The law is very clear on the point that no person who has already filled up the online application form cannot be permitted to further rectify the same unless the recruitment and selecting body has provided for such opportunity.

Now looking to clause 19 of advertisement, I find no other way except as was prescribed under the advertisement, a candidate could have adopted to edit the application form.

Clause 19 of the advertisement is reproduced hereunder:

"19. If any change is to be made in the personal detail mentioned in the O.T.R., it will be mandatory to Sync. it on the Dashboard after the change. Otherwise change will not be allowed. No representation will be accepted for error correction/ amendment in this regard. Incomplete application will be cursorily rejected and no correspondence will be entertained in this regard. Submission of false/ misleading information will lead to cancellation of candidature."

In view of the above, I do not find any justification for the petitioner to have simply moved an application/ representation offline for the purposes of any change in the application form except by way of procedure prescribed for.

The law is equally settled that when there is procedure prescribed to carry out then that prescribed procedure is to be only followed.

The selection and recruitment body is well within its right to prescribe procedure to submit online application form, the procedure to amend it or modify it if already submitted and that too within a prescribed time limit.

Although I decline to pass any order as such permitting the petitioner to rectify the error in the online application form in the light of the conditions laid down in the advertisement but since petitioner has approached the Public Service Commission by making his complaint in the grievance cell, Commission is expected to dispose of the same strictly in accordance with law. The grievance application of the petitioner has been brought on record as Annexure – 3 to the writ petition.

Commission is therefore, directed to pass appropriate order within a period three weeks from the date of production of certified copy of this order.

Order Date :- 1.11.2023

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