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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : March 11, 2015*

+ **W.P.(C) 2371/2015**

JAYDEEP SINGH Petitioner

Represented by: Mr.J.S.Mann, Advocate

versus

UNION OF INDIA & ORS Respondents

Represented by: Mr.Vikas Mahajan, CGSC with
Mr.Rohan Gupta, Advocate
Col.R.S.Kapani

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (Oral)

CM No.4261/2015

Allowed subject to just exceptions.

W.P.(C) No.2371/2015

1. Learned counsel who appears for the respondents states that the writ petition may be disposed of requiring the respondents to look into the grievance of the petitioner and take a decision. If the same is in favour of the petitioner, he would be enrolled as a SOL Clerk, subject to fitness and eligibility being determined under the 'Relationship Category'. If the decision is against the petitioner, it would be conveyed to him with reasons.
2. Learned counsel for the petitioner consents.
3. The undisputed position is that there exists a policy of the Indian

Army to recruit Junior Commissioned Officers in the Indian Army under the “*Relationship Category*”, meaning thereby certain percentage of appointments is restricted to those prospective candidates whose father or brother is serving the Indian Army.

4. The petitioner applied for being enrolled as an SOL Clerk in the Indian Army claiming to be the younger brother of Naik Jitender Kumar, who admittedly is serving under the Indian Army as a Naik. The record of the respondents would show that when Jitender Kumar (the person whom the petitioner claims to be his elder brother) joined the Indian Army as a Naik with the Mahar Regiment Centre he disclosed that the name of his mother was Budhshree Devi.

5. The petitioner submitted a certificate issued by the Board of High School and Intermediate Education U.P. which records that the name of his mother is Vimla Devi.

6. The petitioner claims that Budhshree Devi and Vimla Devi are the same persons.

7. Realizing that there may be mistakes in recording the names of parents, the Indian Army has made a compendium of policy circulars concerning recruitment of JCOs and the policy circulars recognized that spelling variations need to be overlooked.

8. In the case of one Arvind Kumar, the competent authority had passed an order on January 17, 2015, which was noted by this Court in its decision dated January 22, 2015 disposing of WP(C) 187/2015. The order in question reads as under:-

“4573291P/AK

17 Jan 2015

HQ Delhi Area (Legal Cell)

PIN-900106
c/o 56 APO

TIME BOUND COURT CASE NO.3023/2015 IN CWP
NO.187/2015 FILED BY VINIT KUMAR BROTHER OF
NO.4573291P SEP ARVIND KUMAR VS UOI

1. Please refer your Sig No.A-2518 dt. 08 Jan 2015.
2. Mr.Vinit Kumar brother of No.4573291P Nk Arvind Kumar participated in UHQ recruitment rally on 01 Jul 2014 conducted by this Centre and had cleared all the mandatory test including the medicals. However, during the scrutiny of documents it was found that the name of the individual's mother recorded in the education certificate differed entirely from the name in the relationship certificate (Photocopies attached as Appces A and B). Name of mother in the relationship certificate is Kamla Devi where in the education certificate is Kamlesh Devi. The candidate was then given time to rectify the above mentioned anomalies which the individual failed to rectify. In this connection please refer Policy Compendium for Recruitment of Junior Commissioner Officers and Other Ranks 2009 as amended time to time vide Integrated Headquarters of Ministry of Defence (Army) letter No.62554/Rtg 5(OR)(A) dt. 12 Dec 2011 and A/20182/MP 8 (I of R)(a) dt. 07 Aug 2012 (Photocopies attached as Appces C & D). For your ready reference relevant extracts of the same is given as under:-

Para 3 (a)(ii) of Appx C Spelling variation of candidate name, fathers' name and mother name may be accepted as long as the name remains same. Similarly, when the surname has been included in one certificate but not included in the other, it may also be accepted as long as the name is same. Under no circumstances an entirely different name in one of the certificates will be accepted.

3. On 02 Dec 2014 this centre received a photocopy of the letter mentioned in the writ petition (64714/Cent/Rtg B (E) dt 02 Dec 2014) brought by the complaints by hand from Recruiting Directorate, the letter was subsequently received by post on 06

Dec 2014. (photocopy attached as Appx E) directing to accept the individual quoting the authority of the Integrated HQ of Ministry of Defence (Army) letter No.A/20105/MP 8 (I of R) (a) dt 27 Jan 2014. However this letter of 27 Dec 2014 only gives the provision to change/amend the date of birth of a candidate and there is no mention of accepting variations in mother's/father's name. (photocopy attached as Appx F). This fact was informed to Integrated HQ of Ministry of Defence (Army) vide this Centre letter No.0148/A4 dt 05 Dec 2014 (Photocopy attached at Appx G) and clarification was sought on this from recruiting directorate. The recruiting directorate directed this Centre to seek clarifications on the subject from Inspector of Records as MP-8 is the final authority on the subject vide their letter No.401108/Rtg B (E) dt. 17 Dec 2014 (photocopy attached at Appx H). On 24 Dec 2014 this centre approached MP-8 for clarifications on the subject vide this centre letter No.0148/A4 dt. 24 Dec 2014 (Photocopy attached at Appx J). The clarification on the subject from MT-8 is still awaited.

- 4. The above mentioned case is not an isolated instance where the candidate has been rejected due to anomalies in the name of father/mother. Making an exception in one case will therefore set a precedent and violate the policy on the subject. Moreover, the name of the mother is entirely different the possibility of plural marriage cannot be ruled out.*
- 5. It is recommended that the policy on the subject may be amended to help such genuine cases.”*

9. In the decision dated January 22, 2015 this Court had noted the practice in India of a lady changing her name after marriage. It was highlighted that the authorities should focus on whether it is a case of one person having two names or not.

10. The respondents would keep this in mind while taking a decision on the claim of the petitioner and for which the instant writ petition would be treated as a representation.

11. No costs.

CM No.4262/2015

Dismissed.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

MARCH 11, 2015

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