

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19197 of 2012

Date of Decision:- 24.08.2016.

Nikku

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Sandeep Singh Jattan, Advocate for the petitioner.

Mr. Pawan Kumar Longia, Senior Panel counsel for
Union of India-respondents.

P.B. BAJANTHRI, J. (Oral)

- 1.) In the instant writ petition, petitioner is seeking a direction to the respondents to consider his candidature for selection and appointment to the post of Constable (GD) BSF pursuant to advertisement dated 3.12.2011.
- 2.) The petitioner is stated to have submitted his application for the candidature to the post of Constable (GD) in CAPFs and Rifle Man (GD) in Assam Rifles for the year 2012. The respondents permitted the petitioner to participate in the process of recruitment, namely, physical efficiency test, written examination and medical examination. In all the above examination, he has passed and he is eligible to be selected and appointed to the post of Constable (GD). His name has not been considered on the sole reason that he failed to comply item No.6 of the Important Instructions to the Candidates which reads as follows:-

6	<i>FEE: RUPEES FIFTY ONLY (Rs. 50.00) payable through CRF Stamp or SBI Challan or on-line payment through account with the State Bank of India. Fee is exempted for all Women candidates and candidates belonging to Scheduled Castes, Scheduled Tribes and Ex-Servicemen eligible for reservation.</i>
---	--

3.) Now the question for consideration is at what point of time, scrutiny of applications would be undertaken by the respondents, which is also stated in the Important Instructions to the Candidates at Para 2 and 3 which reads as follows:-

2	<i>In view of the anticipated large number of applicants, scrutiny of the eligibility and other aspects will not be undertaken before the PST/PET and Written Examination and, therefore, the candidature will be accepted only provisionally. Candidates are advised to go through the requirements of educational qualification, age, physical standards, etc. and satisfy themselves that they are eligible for the posts, before applying. Copies of supporting documents will be sought only from those candidates who qualify for the medical Examination. When scrutiny is undertaken after the written Examination, if any claim made in the application is not found substantiated, the candidature will be cancelled and the Commission's decision in this regard shall be final.</i>
3	<i>BEFORE APPLYING, CANDIDATES ARE ADVISED TO GO THROUGH THE DETAILED INSTRUCTIONS CONTAINED IN THIS NOTICE CAREFULLY. THIS NOTICE IS ALSO AVAILABLE ON THE WEBSITE OF THE COMMISSION (http://ssc.nic.in).</i>

4.) Reading of the above instructions, it is obligation on the candidate as well as selecting authority. Candidate was required to comply para Nos.3 and 6 and at the same time, selecting authority is required to comply portion of para 2 – Scrutiny of application after the written examination. Admittedly, scrutiny of application was to be done after physical efficiency test and written examination i.e., prior to medical examination whereas in the present case, the selecting authority instead of scrutinizing the application prior to medical examination they have scrutinized applications of the candidates after medical examination. In the

present case, petitioner was permitted to participate in all the three examinations. Thereafter, the decision has been taken by the respondents that the petitioner failed to comply para 6 of the Important Instructions to the Candidates cited supra i.e., to the extent of non-payment of ₹ 50/-. Having regard to the Important Instructions to the Candidates as well as to the selecting authority, there are lapse on both the sides. Therefore, the respondents' stand that the candidate has not complied the instructions issued to the candidates is too technical that is too in respect of para 6 relates to payment of ₹ 50/- as stated in para 6. Para 6 at Page 7 of the advertisement reads as under:-

“6. MODE OF PAYMENT:

(i) Off-line applications:

The candidates should pay the fee of Rs.50/- (Rs. Fifty only) by means of “Central Recruitment Fee Stamps (CRFS)” only CRFS stamps are available at the counter of all Departmental Post Offices of the country. Recruitment Fee Stamps should be pasted on the application form in the space earmarked for the purpose and got cancelled from the Counter of Post Office of issue with the date stamp of the Issuing Post Office in such a manner that the impression or the cancellation stamps partially overflows on the Application Form itself, taking care at the same time that the impression is clear and distinct to facilitate the identification of date and Post Office of issue at any subsequent stage. After getting the Recruitment Fee Stamps cancelled from the Post Office, the candidate must submit their application to the concerned Regional Office/Sub Regional Offices of the Commission in the usual manner after completing other formalities.

(ii) On-line applications:

The facility of submitting online applications is available on www.ssconline.ssc.nic.in and http://sscregistration.sifyitest.com. The candidates submitting their applications on-line should pay the requisite fee only through State Bank of India either in the form of challan or net-banking.

(iii) Women candidates and candidates belonging to Scheduled Caste, Scheduled Tribe and Ex-Servicemen eligible for reservation are exempted from paying fee.

NOTE I: *Fee once paid will **not** be refunded under any circumstances.*

NOTE II: *Fee paid by **modes other than CRFS/SBI challan/SBI Net banking**, as stated above, will not be accepted and the applications of such candidates will be rejected forthright and the payment made shall stand forfeited.*

NOTE-III: *Candidates may please note that **non-cancellation of CRFS** from the concerned Post Office in the manner indicated above, will lead to rejection of his/her application form. Therefore, it is in the interest of candidates that they get the CRFS cancelled from the concerned Post Office."*

5.) Having regard to the facts and circumstances that there are lapses on both the parties. Non-payment of ₹ 50/- along with application by the petitioner would be too technical, therefore, the respondents are directed to reconsider the petitioner's candidature permitting him to furnish ₹ 50/- as per the mode of payment. If the Central Recruitment Fee Stamps are not available, the petitioner is directed to furnish a demand draft of ₹ 50/-. The decisions cited by learned counsel for the respondents are distinguishable for the reasons that the questions for consideration in those matters was relating to non-supply of eligibility qualification for a particular post and

competitive examination merit is to be given preference. In the present matter, it is not that non-production of any document regarding eligibility. It is only payment of fee of ₹ 50/- Therefore, the petitioner's candidature be re-considered within a period of three months from today.

6.) Appeal stands disposed of.

(P.B. BAJANTHRI)
JUDGE

August 24, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.