

CWP No.17505 of 2016

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Gurbax Singh
2016.09.14 17:10

CWP No.17505 of 2016

Date of decision: 27.08.2016

Gurnam Singh

.....Petitioner

Vs.

Union of India and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr.Gurminder Singh, Senior Advocate
with Mr. J.S.Gill, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. By way of present writ petition under Articles 226/227 of the Constitution of India, the petitioner prays for quashing the impugned order dated 2.3.2016, Annexure P.7 passed by respondent No.1 upholding rejection of his candidature on the ground of suppression of information while filling the application form online and attestation form at the time of interview. Further prayer has been made for quashing the order dated 20.1.2014, Annexure R.4 passed by respondent No.3 cancelling candidature of the petitioner. Direction has also been sought to the respondents to issue appointment letter to the petitioner with benefit of seniority from the date of appointment of other applicants from 2012 batch alongwith arrears of salary and other benefits and to keep one post of Assistant Central Intelligence Officer II vacant during the pendency of the present writ petition.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. In July 2012, the respondent authorities issued an advertisement for direct recruitment to the post of Assistant Central Intelligence Officer Grade II/Executive wherein the essential qualification was listed as Graduation or equivalent from a recognized University. The petitioner being eligible to the said post applied for the same under Other Backward Class Category

(OBC) by way of filling online application form. However, the petitioner being not technically expert, took the assistance of a Cyber Café operator in order to file said online application form and due to heavy rush inadvertently clicked on the “No” option while answering the question “Central Govt. employee with three years of continuous service”. Infact, at the time of filling of form, the petitioner was appointed as Postal Assistant in General Post Office, Ferozepur Cantt, Punjab since the year 2005. The said online application form was the only document submitted by the petitioner before the conduct of written examination on 23.9.2012. Accordingly, Roll Number and registration number were generated and sent to the petitioner. Thereafter, the petitioner appeared for interview conducted by the respondent authorities from December 9, 2012 to December 15, 2012. At the time of the interview, the petitioner was required to fill an attestation form and submit a certificate to certify his OBC category status. The petitioner submitted the latest certificate dated 3.12.2012. With regard to the attestation form, at Sr.No.11, the petitioner was required to disclose information in respect to any appointment held/being held under the Central or State government or a semi government or a quasi government body or an autonomous body or a public undertaking or a private firm or institution alongwith full particulars and details. However, inadvertently, the said question got skipped by the petitioner. Having qualified the written examination on 23.9.2012, the petitioner was declared selected for appointment to the post of Assistant Central Intelligence Officer Grade II/Executive by the respondent authorities. When no appointment letter was received by the petitioner, he approached the respondent authorities and filed representation dated 23.10.2013. The petitioner also wrote a letter dated 16.11.2013 to respondent No.4 for delay in receiving appointment letter. For three months, the petitioner neither received any reply nor any appointment letter. On 20.1.2014, the petitioner received a memo stating that on comprehensive scrutiny of documents along with

the reports on character and antecedents, his candidature had been cancelled. The petitioner wrote letter dated 1.3.2014 to respondent Nos. 3 and 4 to specify the grounds on which his candidature stood cancelled. Having received no response, the petitioner filed application under Section 5 of the Right to Information Act, 2005 (in short, “the RTI Act”) to obtain the requisite information. A reply to the said application was received on 17.6.2014 by the petitioner stating that since the respondent authorities stood exempted under section 24(1) of the RTI Act, the information could not be provided. The petitioner filed appeal against the said decision. Even then no information was provided to him. The petitioner approached the Tribunal. Reply was filed by the respondents and rejoinder was filed by the petitioner thereto. The Tribunal after examining the matter passed order dated 2.3.2016 wherein the issue regarding furnishing of OBC certificate issued post the cut off date i.e. 19.8.2012 was decided in favour of the petitioner. However, the Tribunal upheld the cancellation/rejection of candidature of the petitioner on the ground of suppression of information while filling the application form online and the attestation form at the time of interview. Hence the instant writ petition by the petitioner.

3. We have heard learned counsel for the petitioner.

4. Learned counsel for the petitioner submitted that from the mistake which had been termed as concealment in the application form, no benefit had been derived by the petitioner. Moreover, it was voluntarily disclosed by the petitioner about his previous employment to the employer. Parity was also claimed with the case of Angrej Kumar. Relying upon the judgment of the Apex Court in ***Commissioner of Police, Delhi vs. Dhaval Singh***, (1999) 1 SCC 246, it was urged that the Apex Court therein had granted the benefit by holding that it was an inadvertent mistake which had been committed by the applicant in not giving information against the relevant column.

5. From the perusal of the averments made in the petition and after hearing learned counsel for the petitioner, we find that the important information was suppressed by the petitioner while filling the application form online. He had recorded "No" in the column regarding "Occupation (if employed give designation and official address)". This information was found to be false. Actually, he was working as Postal Assistant in General Post Office, Ferozepur. It was specifically stated in the application form that furnishing of false information or suppression of any factual information in the attestation form would be a disqualification and is likely to render the candidate unfit for employment under the Government. It has been rightly recorded by the Tribunal that since the petitioner had filled his application form and attestation form inaccurately and suppressed important information about his previous employment, the action taken by the respondents was legal and valid. With regard to relying upon the case of Angrej Kumar who had also furnished false information, the respondents are already proceeding against him in accordance with law. Thus, the petitioner cannot derive any benefit from the same. The relevant findings recorded by the Tribunal read thus:-

"12. We have given our careful consideration to the matter. So far as the issue of validity of OBC certificate submitted by the applicant is concerned, we are of the view that the application could not be rejected on the ground that the date of issue of the certificate was later than the date when the applicant filled his application form online. On the last date for receipt of applications, the applicant was required to fulfill the eligibility criteria of being an OBC as he was applying for selection against this category. The date of the certificate that he furnished in this regard could even be a later date.

13. The second ground for rejection of the candidate of the applicant was the suppression of information while filling the application form online and the attestation form at the time of interview. The applicant had stated therein that he was not employed, while in actual fact, he was working as Postal Assistant. This is

admitted by the applicant in his OA as well as the rejoinder whereby case has also been made out regarding discrimination faced by the applicant since one Shri Angrej Kumar had been employed by the respondent department although he had similarly wrongly filled his online application form and attestation form. We are not inclined to accept arguments advanced by the learned counsel for the applicant that the applicant can gain nothing by concealment of information that he was working as Postal Assistant. Online application form as well as attestation forms are to be filled accurately and it is clearly mentioned in the attestation form that furnishing of false information or suppression of any factual information would be a disqualification to render the applicant unfit for employment under the Government. Furnishing incorrect information would also cast doubt on the integrity of the applicant/employee and cannot be brushed off lightly.

14. The respondents have also admitted that since it has come to the notice of the department that Shri Angrej Kumar had suppressed factual information about his past employment, the department is going to proceed against him as per the rules. The applicant cannot claim negative equity on this account. Since he had filled his application form and attestation form inaccurately and suppressed information about his previous employment, the respondents have rightly rejected the candidature of the applicant and we do not see any need for judicial intervention in this matter. OA is dismissed. No costs.”

6. Learned counsel for the petitioner has not been able to produce any material on record to substantiate the claim made in the writ petition.

7. Referring to the judgment cited by the learned counsel for the petitioner in ***Dhaval Singh's*** case (supra), it may be noticed that the factual position therein was different. The respondent therein omitted to give information against the relevant column in the application form about the pendency of the criminal case. He however, voluntarily conveyed it to the authorities. In the present case, the petitioner suppressed the important information regarding his previous employment. He mentioned “No” against the requisite option. The

petitioner never gave the correct information voluntarily. Thus, the petitioner cannot derive any benefit from the said decision.

8. In view of the above, we do not find any merit in the writ petition and consequently the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

August 27, 2016
‘gs’

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes