

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

Date of decision: January 08, 2016

+ W.P.(C) 4631/2015 & CM No.12527/2015
KAPIL JOSHI

..... Petitioner

Through: Mr.Chandra Shekhar,
Advocate

versus

UNION OF INDIA & ORS

..... Respondent

Through: Mr.Anurag Ahluwalia,
Advocate for R-1 & R-2
Mr.Manoj, Standing Counsel
with Ms.Aparna Sinha, Adv.
for R-3

CORAM:

HON'BLE MR. JUSTICE V.KAMESWAR RAO

V.KAMESWAR RAO, J. (Oral)

1. The present petition has been filed by the petitioner, challenging the order dated March 10, 2015 whereby the respondent No.2 has rejected the representation made by the petitioner dated February 25, 2015 for rectifying the error crept in, while exercising option with regard to combined recruitment for Assistant Grade-III in respondent No. 3-Corporation.

2. Mr. Chandra Shekhar, learned counsel for the petitioner would submit, that pursuant to the notice of the respondent No.3 Food Corporation of India for combined recruitment for Assistant Grade-III

(General); Assistant Grade-III (Depot); Assistant Grade-III (Accounts Cadre) and Assistant Grade-III (Technical Cadre), the petitioner applied for Assistant Grade-III (General), Post Code-A; Assistant Grade-III (Accounts Cadre), Post Code B and Assistant Grade-III (Depot), Post Code D and uploaded all the details i.e photograph, signature and choice for all the posts except Assistant Grade-III (Technical) Post Code-C as he was not eligible for the said post. He would state, that against the column for the post of Assistant Grade-III (Accounts), for which the post code was B, the requirement was, the petitioner was to write '1' for 'Yes' and '2' for 'No'. Inadvertently, the petitioner wrote 2 instead of 1. He states, that the petitioner downloaded the admit card for Paper-I. The said admit card did not contain his photograph, signatures and the post preferences. Similarly, he downloaded the admit card for Paper-II. The petitioner again found to his shock, that the admit card did not contain his photograph, signatures and his post preferences thereon. On both the occasions, the petitioner visited the office of the SSC for getting his admit card properly rectified and was allowed to sit in the examination after he had taken a passport size photograph and copy of a signature on a plain paper duly attested by a Gazetted Officer to the examination centre. The results were declared on March 5, 2014. He states, that the petitioner's name did not figure in the list of selected/recommended candidates. As

per the merit list prepared, the petitioner had got 233.50 marks, whereas the last selectee against Assistant Grade-III (General) got 244.5 marks and Assistant Grade-III (Depot) got 234 marks. He states, that the respondent should have declared the result of the petitioner for the Assistant Grade-III (Accounts Cadre). According to him, they did not consider the name of the petitioner for the said cadre on the ground that the petitioner had not opted for the said post. He would also state, that when the petitioner went to the Staff Selection Commission in the month of November, 2014, necessary correction incorporating the fact of having applied for Assistant Grade-III (Accounts Cadre) was made by putting the numerical '1' against the relevant column. He has drawn my attention to the application form at page 13 of the counter-affidavit (running page 206) filed by the respondent No.1. Unfortunately, despite such a correction, the respondents have rejected the representation dated February 25, 2015.

3. On the other hand, Mr. Anurag Ahluwalia, learned counsel appearing for respondent Nos.1 & 2 has also drawn my attention to the application form filled by the petitioner wherein, it is clear that the petitioner had given preference to only two posts A and D i.e Assistant Grade-III (General) and Assistant Grade-III (Depot). He states, on a specific query, in the application form itself that whether he is applying for Assistant Grade-III (Accounts Cadre), the answer was 'No' and

similarly against a specific query as to whether he is applying for the post of Assistant Grade-III (Technical), the petitioner had put numerical '2' which means 'No'. He also states, that insofar as other two posts are concerned for which he had shown his preference, he had not come in the merit.

4. Learned counsel for the respondent No.3 had also taken me through various provisions related to the filling up the application forms. According to him, there is a clear stipulation that once option filled, cannot be changed. The candidates are also required to go through the instructions carefully before filling up the application form. The instructions also state, that the FCI/SSC will not be responsible for any consequences arising out of the incorrect filling up the application form.

5. Having heard the learned counsel for the parties, it is noted, when the petitioner was aware of the error in the application form, the petitioner made representation for the first time on March 18, 2013, after the results were declared. If that be so, it is a clear case of an afterthought, where the petitioner knowing well that he did not qualify for Assistant Grade-III (General) and Assistant Grade-III (Depot), made a claim for Assistant Grade-III (Accounts) possibly knowing that the last selectee against that post had secured less marks than him and would come within the merit. In fact, I note, the representation dated March 18, 2013, does not even

mention of the fact that the petitioner had gone to the Staff Selection Commission for making necessary rectification by putting numerical '1' against Assistant Grade-III (Accounts) Cadre at page 13 of the counter-affidavit (running page 206) filed by the respondent Nos.1 & 2.

6. In the absence of such a stand in the representation, the inference that has to be drawn, such a stand now taken by the petitioner that he had approached the Staff Selection Commission in the month of November 2014 is incorrect and a false one. It is clear from the form, at page 13 of the counter-affidavit (running page 206) that the petitioner had only opted for two posts Assistant Grade-III (General) and Assistant Grade-III (Depot) and not Assistant Grade-III (Accounts) as sought to be urged by the petitioner today. That apart, the instructions related to the filling up of the application form are very clear. In view of the same also, no interference is called for.

7. I do not see any merit in the petition. The same is dismissed.

CM No.12527/2015

8. In view of the order passed in the writ petition, the present application is dismissed as infructuous.

**(V.KAMESWAR RAO)
JUDGE**

JANUARY 08, 2016/ak