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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP- 20390-2018
Date of Decision : August 24th, 2018

Rakesh Nain

.... Petitioner.

Versus

Union of India and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Karan Singh, Advocate
for the petitioner.

Mr. Sunil Kumar Sharma, Advocate,
for the respondents-UOI.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of Mandamus directing the respondents to restore the candidature of the petitioner for recruitment to the post of Soldier General Duty.

2. Facts relevant for the purpose of decision of this writ petition; that the petitioner herein had applied for the post of Soldier General Duty and his grievance is that his candidature has been cancelled, without passing any written order by the respondents, on the ground that the educational qualification of the petitioner is from the State other than that of Punjab, which is totally illegal and arbitrary as the petitioner is resident of

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the State of Punjab and otherwise he fulfilled all the qualifications which were required for his appointment in response to the advertisement dated 24.05.2018 (Annexure P1).

3. As per the petitioner, educational qualifications required for appointment to the post of Soldier General Duty, as mentioned in the Advertisement, Annexure P/1, are as under:-

> "SSLC/Matric with 45% marks in aggregate and 33% in each subject. No aggregate percentage is required for higher qualification i.e. 10+2 and above. However, minimum 33% in each subject is required."

4. As the petitioner was possessing the said qualifications, he submitted his application online, on 27.06.2008 and the respondents issued him admit card (Annexure P/6). The petitioner also appeared in the physical test held on 06.08.2018 and qualified successfully the 1600 m. race. Thereafter, the petitioner was called for scrutiny of documents and accordingly he appeared along with documents but the officials of respondents/department simply said that since the educational qualification of the petitioner is from State of Haryana, he being resident of State of Punjab, was not eligible for the said post. The petitioner made a representation (Annexure P/7), but no action was taken and as such, the present writ petition before this Court.

5. On being given notice, respondent-Union of India filed reply by way of affidavit of Captain Inderpal Singh with the averments that the facts detailed in the petition are incorrect. The petitioner was screened at Patiala Rally on 06.08.2018 for the category of Soldier GD. After passing the 1.6

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Kilometer run and after doing his Biometric verification from Registration stand, he was brought before documentation stand for pre-document formalities. On checking the documents produced by the petitioner, it was noticed that the some were not found complete as per the instructions laid down in the Rally notification of Patiala Rally August 2018.

6. The essential requirement was that a candidate must be unmarried and he must be having “Unmarried Certificate” along with him indicating that he was unmarried. The said certificate was required to be got issued from Village Sarpanch/Municipal Council. In para 4 of the notification, there is a list of documents which were mandatory to be brought by the candidates at the Rally site along with their originals and as the petitioner failed to produce the said documents, his candidature was rejected due to non-submission of complete documents. Moreso, the petitioner has not undergone Physical Fitness Test (Beam, 9 Feet ditch and Zig-Zag Test), Physical Measurement Test (i.e. Measurement of Height, Weight & Chest) and also has not undergone the Medical Examination held during the Rally, which was held w.e.f. 01 to 13 August 2018. Only those candidates who had passed 1.6 km. Run, Physical Fitness Test, Physical Measurement Test, Medical Examination and submitted complete sets of documents as notified in Rally Notification August 2018, at the Rally site itself, have been issued the Admit Cards for Common Entrance Test.

As regard to the plea taken by the petitioner that his candidature was rejected as he had educational qualification from State of

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Haryana, it has been submitted that the same is factually incorrect because there were 47 candidates who had the educational qualification from State of Haryana and have been selected and will be appearing in further recruitment process and the candidature of the petitioner was not rejected on the said ground but on account of non production of requisite certificates regarding his marital status of being unmarried which is essential condition. Moreover, there was a Grievance Cell established at the Rally Site itself (on the exit gate) and the petitioner has not submitted/lodged any grievance there. The present writ petition is, therefore, liable to be dismissed.

7. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that there is no dispute on the fact that the petitioner had applied for the post of Soldier General Duty in pursuance to the advertisement dated 24.05.2018 (Annexure P/1). The application was submitted on-line. He had appeared for physical test on 6.8.2018 for 1600 Mts. Race and thereafter he was required to produce the original documents as notified to all the candidates in the publication of notification. The relevant clause (4) (j) is being extracted below :-

> "4. Candidates are required to bring following documents/certificates in original with two attested photocopies with them to the rally site:-
>
> (a) – (h) xx xx xx
>
> (j). **Unmarried Certificate** Unmarried Certificate for candidates less than 21 years of age with photograph issued by Village Sarpanch/Municipal Corporation within last six months."

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8. The petitioner failed to produce the said certificate by the stipulated date and as such, he was not considered for the subsequent tests required as per the process for recruitment. The other candidates have already undergone the Physical Fitness Test, Physical Measurement Test and Medical Examination held during the rally. If at all the candidature of the petitioner was rejected without any reason, he should have lodged his grievance at Grievance Cell at the Rally site but that has not been done.

9. As regard to the plea taken by the petitioner in the writ petition that his candidature was rejected on the ground that he had educational qualification from the State of Haryana, the same has been clarified by the respondents that his candidature was not rejected on the said ground as similarly situated 47 candidates, who were having educational qualification from the State of Haryana, were allowed and they were selected for further recruitment process. More so, the other candidates have already undergone the Physical Fitness Test, Physical Measurement Test and Medical Examination held during the rally.

10. The petitioner had not submitted the original documents at the relevant time, which was the essential condition as per the laid down instructions in the Rally notification, applicable to all the candidates and by now, he has not been able to undergo the Physical Fitness Test, Physical Measurement Test and Medical Examination. The petitioner has intentionally not disclosed this fact regarding non-production of unmarried

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certificate showing his status of being unmarried. The present writ petition is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

August 24, 2018.
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Whether speaking/reasoned? : Yes
Whether reportable? : Yes

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