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

+ W.P.(C) 10092/2018 with CM APPL. 39341/2018

NEERAJ YADAV

..... Petitioner

Through: Mr. Khagesh B Jha and Ms. Shikha
Sharma, Advocates

versus

GOVT. OF NCT OF DELHI AND ANR.

..... Respondents

Through: Mr. Subrahmanyam and Mr.
Abhishek Sharma, Advocates

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

14.11.2018

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1. The petitioner has preferred the present writ petition to assail the order dated 09.08.2018 passed by Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No.2963/2018. The tribunal has rejected the said O.A of the petitioner.

2. For the appointment of guest teachers in Delhi Government Schools for the academic year 2017-18, Respondent No.1 issued a public advertisement inviting applications. The candidates were required to register their candidature online with any one district of choice on the website of the education department. On 28.05.2017, the petitioner uploaded his online application form. While entering the year of passing the 12th standard SSC Examination, by mistake, he entered the year as 2005 instead of 2007. On 13.06.2017, the respondent issued a circular permitting the applicants to make corrections, if any, in their application form.

3. The petitioner states that he did carry out the correction in his application form and changed the year of passing the SSC Examination from 2005 to 2007. Pertinently, the petitioner had also submitted his documents evidencing the fact that he had cleared the SSC Examination in the year 2007.

4. The petitioner was shortlisted by the respondent for the purpose of verification of documents. On 28.09.2017, he appeared for verification of his documents. His candidature was rejected on the ground that in the application form he had mentioned the year of his passing the SSC Examination as 2005 and not 2007. The petitioner then approached the tribunal by filing O.A. No.1174/2018. Several other candidates had also approached the tribunal with their respective grievances. The tribunal disposed of the O.A. with the direction to the respondent to decide the representation moved by the applicants by passing a speaking order.

5. The respondents then passed the order dated 21.05.2018, whereby the representations of 16 candidates including the petitioner was rejected. Insofar as the petitioner is concerned, the reason given for rejection of the candidature was as follows:

“10. And whereas, the candidature of Mr. Neeraj Yadav, Emp ID-2017002446, for engagement as Guest Teacher TGT PET was rejected by District as the Applicant wrongly mentioned year of passing Senior Secondary Examination as 2005 instead of 2007 in his online application. The candidate did not make necessary correction in the educational qualification in the online application for making online correction, as per department circular dated 13.06.2017, which provided for such correction to be made, if so desired by the applicant up to 19.06.2017. Further, as per Note-3 in the online application of the candidate, no correction was to be allowed after submission

of application”.

6. The petitioner again approached the tribunal by preferring the aforesaid O.A., which has been rejected by the tribunal.

7. The submission of learned counsel for the petitioner is that, firstly, the wrong mentioning of the year of passing of the SSC Examination in the application form as 2005 instead of 2007 was not such a fatal mistake, which could have resulted in rejection of the petitioner's candidature. The submission is that the petitioner had also submitted his documents which showed that he had cleared the said examination in the year 2007. There was no mal-intention and nothing turned on the year of passing the 12th class examination.

8. The further submission is that in response to the circular dated 13.06.2017 issued by the respondent, the petitioner had indeed carried out the correction in the year of passing of the SSC Examination. In this regard, attention has been drawn to the print out of the application form which has been placed as Annexure-C at page 55, which shows that in column 17, against the SSC Examination, the month and year of passing has been mentioned as May 2007.

9. Learned counsel submits that the respondents have resorted to hair splitting while rejecting the petitioners candidature, only on account of the fact that in column 21, the year of passing of 12th examination continues to be mentioned as 2005. Learned counsel submits that, in fact, the said entry was not corrected, since the said entry was not open to correction. In any event, the said typographical error could not have been used to oust the petitioners consideration.

10. On the other hand, learned counsel for the respondent submits that the petitioner had initially furnished his form online mentioning the year of passing the SSC Examination as 2005. Even after correction, he continued to mention the year of passing the SSC Examination as 2005 against column 21. Reference is also made to para 6 of the counter-affidavit, which reads as follows:

“6. That, all the entries filled by applicants in the online form are used as identity of the applicant by the computer software automatically, so that the applicant may not fill more than one application form in same or various districts of Directorate of Education. This exercise was implemented only to avoid the loss of public money as well as precious time of study of the students for whom these guest teachers have to be deployed in a time bound manner. If one applicant applies in more than one district, then in many districts post remained vacant except the place where such applicant may join. A very negligible deviation in information filled in the online application form may provide the chance to fill more than one online application to any applicant. Again the condition for rejection of candidature of applicant in case of any discrepancy was framed to avoid any complication. All the applicants, except a very few of them, followed the conditions and guidelines very carefully and filled the online form successfully with full accuracy”.

11. Having heard learned counsels and perused the record, we are of the view that the rejection of the petitioners candidature is completely erroneous and mindless. Firstly, a mere typographical error of the year in which the candidate has passed the examination could not have visited him with the consequence of ousting him from consideration, particularly when he had also submitted the documents to show that he had passed the SSC Examination in the year 2007 and not 2005. Secondly, the petitioner had responded to the circular dated 13.06.2017 and had indeed made the

correction in column 17. This is clear upon a comparison of the application form of the petitioner as initially uploaded (at page 41 of the record) with the application form as corrected (at page 55 of the record). However, the entry against column 21 in relation to the year of passing of 12th examination continues to read as 2005 in both the forms. There was no reason for the petitioner not to make the said correction, if the same could be made. Thus, the submission of the petitioner that the entry against column No.21 was not open to correction appears to be correct. Admittedly, nothing turned on the year of passing the said examination, and it had no impact on the eligibility of the petitioners consideration.

12. In our view, the said typographical error was not so material as to justify the rejection of the petitioners candidature, when he had also submitted the documents in support of the application form. The person scrutinising the application form is expected to be reasonably an intelligent person, who would be in a position to use his mind and compare the entries made in the application form with the supporting documents submitted by a candidate. It cannot be said that the person scrutinising the application form would be left with any doubt with regard to the entries made in the application form, once the said entries are compared and verified with the documents submitted. The test of suitability of a candidate is not founded upon the accuracy with which he fills up the application form. To err is human, and such like minor errors can creep in with the most diligent and efficient candidates.

13. The reason contained in para 6 of the counter-affidavit is clearly an afterthought. All the particulars of the petitioner including his name,

father's name and address, contact number, email id etc. – including roll number assigned to him in the 12th class SSC Examination have been correctly mentioned. To say that the petitioner could submit two forms and get away with it by mentioning the year of passing differently in the two forms, in this background, is completely unacceptable.

14. The submission of the respondents contained in para 6 of the counter-affidavit is not based on any factual basis, but appears to be an afterthought and an argument of ingenuity. On our query, learned counsel for the respondent has not been able to point out any instance where a candidate may have made multiple applications in different districts of the Directorate of Education; may have been selected in one of those districts, and; the vacancy in the other district may have remained unfilled.

15. In our view, the impugned order cannot be sustained and the same is, accordingly, set aside. The respondents are directed to consider the candidature of the petitioner for the post of guest teacher. The petitioner shall be empanelled by the respondents in the panel of guest teacher and he shall be given an assignment as a guest teacher as and when the requirement arises.

16. The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 14, 2018
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