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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 13th September, 2018

+ W.P.(C) 11956/2016 & CM Nos.47107/2016, 24470/2017

VINEET HARIT Petitioner

Through: Mr. B.K.Gautam, Adv.

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Dilbagh Singh, Adv. for R-1

Mr. P.B.A. Srinivasan, Adv. for R-2 to 4

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

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JUDGMENT (ORAL)

1. This writ petition pertains to an interview, conducted by the Industrial Finance Corporation of India (hereinafter referred to as “the IFCI”) on 19th November, 2016, pursuant to an Advertisement No.IFCI /2016/01, which was issued for recruitment to various posts.

2. The petitioner applied, pursuant to the aforementioned Advertisement, for the post of Assistant Manager (Finance). The application was submitted on 19th June, 2016, which was prior to the last date of submission of the application, i.e. 20th June, 2016.

3. The main case of the petitioner, in the writ petition, is that he received a call letter for attending the interview, scheduled for 19th November, 2016 only on the same day. The petitioner contends that the interview was to be held in New Delhi whereas he was residing in Agra; as a consequence, it was impossible for him to attend the

interview.

4. The petitioner also submits, in this regard, that, though the call letter was dated 11th November, 2016, it was dispatched by the respondent only on 16th November, 2016 and was received at the New Delhi post office on 18th November, 2016, and was delivered to the petitioner the next day i.e. 19th November, 2016, at Agra, being the date of interview.

5. The petitioner also submits that, in the list of candidates shortlisted for interview, he figured at the top of the Scheduled Caste candidates. According to the petitioner, he is “very intelligent”, and was deprived of an opportunity to be appointed as Assistant Manager, owing to the delay, on the part of the IFCI, in communicating, to him, the date of interview.

6. On these premises, the writ petition seeks issuance of a writ of mandamus, directing the respondent to interview the petitioner as well for the post of Assistant Manager (Finance), pursuant to the above advertisement.

7. The respondent contends, in its counter affidavit, *per contra*, that the advertisement made it absolutely clear that communications would only be by e-mail. It also cautioned candidates, for this reason, to keep checking their email inbox. Though it is not disputed that the postal communication, regarding the interview, was dispatched on 16th November, 2016, learned counsel for Respondent Nos. 2 to 4 contends that the date of the interview was intimated to the petitioner, by e-mail, 10 days prior to the interview i.e. 9th November, 2016. A copy of

the said e-mail has also been annexed as Annexure-R-3 to the counter affidavit, and is seen to have been sent from “*recruitment2016@ifcilt.com*” to “*haritvineet88@gmail.com*”, with a copy marked to “*haritvineet@gmail.com*”.

8. It is not disputed by the petitioner, that these e-mail addresses actually were his.

9. The very first sentence of the e-mail advised the petitioner to appear, before the Selection Committee on 19th November, 2016, for personal interview, against his application for the post of Assistant Manager.

10. In para (II) of the “brief history of the case”, as set out in the counter affidavit filed by the IFCI, the following averments figure:

“II. As per instructions given in the advertisement on How to apply Online for the post of “Assistant Manager (Finance)”, it was clearly advised that the “*candidate should have a valid E-mail id which should be kept active till the declaration of final result. This is essential for him/her in getting communication/interview advice, etc, by E-mail. Candidates are also advised to keep checking their spam/junk mail box, in addition to inbox folder. No change in E-mail id will be entertained during the entire process of the recruitment.*” It was also advised to the candidates to visit website for updates and dates of interview etc. and it was further stated that the applications were invited only by means of on-line and that the communication mode would be by means of e-mail as per the instructions clearly specified above. Since the Petitioner has applied for the post through online process meaning thereby that he cannot take the plea of any postal delay specially when the e-mail communicating the time and date of training and interview were sent to him 10 days prior (i.e., 09/11/2016) to the date of interview. Respondent No.2 to 4 has also mentioned clearly in its advertisement that they will not be responsible for any loss of

application/communication letter/e-mail sent, due to invalid/wrong email id/wrong postal address/postal delay etc, in case of any communication made by Respondents No.2 to 4. It was also clarified that no request in this regard will be entertained at any stage.”

11. As the italicised words, in the above paragraph from the counter affidavit, were not to be found in the documents on record, learned counsel for Respondent Nos. 2 to 4 was directed to place, on record, the documents containing these instructions. In compliance therewith, an additional affidavit has been filed, by the Respondent Nos. 2 to 4, annexing the entire advertisement, including the instructions relating to “how to apply online”. Under the head “Pre-Requisite for applying online”, it is specified as under:

“(B) Pre-Requisite for applying online:

i. Scan your photograph, signature, proof of date of birth, qualifying educational certificates (10th onwards), present/last employment certificate, caste certificate (if applicable), disability certificate (if applicable), proof confirming status of Ex-serviceman (if applicable), proof confirming domicile of J & K during 1/1/1980 to 31/12/1989 (if applicable), and Resume.

ii. Keep the necessary details/documents ready to make online payment of the requisite cost of application. The candidate is required to keep details about bio-data/necessary details ready to enable him/her to fill up the application form correctly and to make online payment of cost of application. The name of the candidate or his/her father/husband, etc. should be spelt correctly in the application as it appears in the certificates/mark sheets.

iii. Candidates should have a valid E-mail id which should be kept active till the declaration of final result. This is essential for him/her in getting communication/interview advice, etc. by E-mail. Candidates are also advised to keep checking their spam/junk mail box, in addition to inbox

folder. No change in E-mail id will be entertained during the entire process of the recruitment”.

12. A fervent attempt was made by learned counsel for the respondent, to cast doubt on whether these instructions, under the head “How to apply online”, were actually part of the advertisement issued by the IFCI.

13. However, it is stated on oath, in para 4 of the additional affidavit, that Annexure R-1 thereto is “a copy of the entire advertisement along with pages missed out regarding instructions for applying online which was published on the website of IFCI”. Mr.Srinivasan, learned counsel for Respondent nos.2 to 4 also submits, at the Bar, that all the entire documents annexed with Annexure R-1 to the additional affidavit, including the instructions on “How to apply online” were, in fact, part of the advertisement, and were available online at the time when the candidates, including the petitioner applied for the posts.

14. In view of the aforesaid statement made on oath, in the affidavit, and in view of submission of Mr. Srinivasan, there is no reason for me to doubt that the said instructions were, in fact, available to the petitioner, at the time when he applied for the post.

15. In view of the above, it is apparent that it is the petitioner who has himself been remiss in failing to keep track of his e-mail inbox, in which, ten days prior to the interview, i.e. 9th November, 2016, the requisite call letter had been dispatched to him. He cannot, therefore, seek to piggyback on the fact that the postal communication of the

said interview reached to him only on 19th November, 2016.

16. For the above reasons, there is no merit in this writ petition, which is dismissed with no order as to costs.

C.HARI SHANKAR, J

SEPTEMBER 13, 2018

bh/dsn

