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

% *Date of Judgment : 10th December, 2019*

+ **W.P.(C) 13038/2019**

DEEPIKA Petitioner

Through **Mr. Setu Niket, Advocate**

versus

UNION PUBLIC SERVICE COMMISSION Respondent

Through **Mr. Naresh Kaushik and Ms. Vibhuti Tyagi, Advocates**

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

G.S. SISTANI, J. (ORAL)

CM.APPL 53172/2019(Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The petitioner herein had filed O.A. No.2969/2019 before the Central Administrative Tribunal (the 'Tribunal'), which stands dismissed by an order dated 05.12.2019, which has led to the filing of the present writ petition.

4. Brief facts which are required to be noticed for disposal of the present writ petition are that pursuant to a notification dated 10.04.2019 issued by the respondent for conducting Combined Medical Services Examination, 2019 the petitioner uploaded her application on 28.04.2019. She was issued an admit card in the first week of July, 2019. The examination was held on 21.07.2019 and the result was declared on 16.08.2019.
5. At the time of appearing in the examination, it was however pointed-out to the petitioner that instead of filling her name in the application form, she filled the name of her mother. The petitioner made a representation for correction of the name on 20.08.2019; but by an order dated 09.09.2019, the respondent refused to accede to her request, which led to the filing of the OA, which now stands dismissed by the Tribunal.
6. Learned counsel for the petitioner very candidly admits the mistake committed by the petitioner. He submits that out of stress and confusion, the petitioner filled in the name of her mother instead of her own name. He states that the mistake may have occurred by reason of triggering of the 'auto-fill' feature on the computer. He submits however that this is the second last opportunity for the petitioner to appear in the examination, after which the petitioner will be overage. Reliance is placed on the guidelines for filling-up the online Detailed Application Form (DAF), more particularly para 11 of the DAF which provides for correction of errors in filling-up of the form and reads as under:

“11. Candidates may note that some of the fields namely Candidate's name, Date of Birth, Father's name,

Mother's name, email address, Physically Challenged category, Disability percentage etc. have been prepopulated using the information provided by the candidate at the time of filling up the earlier Online Application Form for writing the Written Examination/Preliminary Written Examination. Such fields cannot be changed by the candidate. However, if a Candidate notes any error/discrepancy in these fields, he may make a separate detailed representation to the Commission including all relevant documents, in support of his claim. The Commission will decide each such case on merit and its decision in such cases shall be final."

Further he submits that the petitioner's case cannot be equated with a case of willful and *mala fide* default, with intention of providing false information or documents ; and that it was a case of genuine and inadvertent error ; and the consequences are not commensurate with the error which has been committed by her. He further submits that being a young woman, her employment should be encouraged and the Court should take a sympathetic view in the matter.

7. Mr. Naresh Kaushik, learned counsel for the respondent, has however vehemently opposed this petition. He submits that in a matter like this, this Court and the Supreme Court have not allowed such relief having regard to the fact that the Union Public Service Commission (UPSC), which conducts several nationwide examinations, receives a large number of applications every year; and if such laxity is allowed or condoned, it will be virtually impossible for the UPSC to meet deadlines and compile the details which are required to be sent to user departments.

8. We have heard the learned counsel for the parties and have considered their rival submissions.
9. The facts which we have narrated above are undisputed. The short question which arises for our consideration is whether, in the facts of the present case, the petitioner should be allowed to correct a *bona fide* error in the application form.
10. We find force in the submission of the learned counsel for the petitioner that this case cannot be equated with a case of willful or *mala fide* attempt at providing false information or false/fabricated documents ; or a case where a candidate intends to mislead the respondent in any manner. No doubt the respondent receives a very large number of applications ; and it cannot possibly be making corrections in such applications, but a reading of para 11 of the DAF shows that a provision has been made even for change of name in the application form, amongst other things. Para 11 of the DAF clearly reads that some of the fields, being candidate's name, date of birth, father's name, mother's name, email address, physically challenged category, disability percentage etc. are pre-populated using information which is provided by the candidate while filling-up the earlier online application form for the purpose of writing the Written Examination/Preliminary Written Examination. Such fields cannot be changed by the candidate ; however a provision has been made that if a candidate notes any error/discrepancy in these fields, they may take recourse by making a separate, detailed representation before the Commission, including all relevant documents in support of his or her claim. While the representation was made by the petitioner and stands rejected, we are of

the view that the interpretation of para 11 of DAF adopted by the respondent is narrow and over-restrictive since the error committed by the petitioner is clearly unintentional and *bona fide*.

11. In our view, the error committed by the petitioner, though fundamental, is not informed with any malice, *mala fides* or sinister reason. We also notice that, from the record annexed to the petition, the identity of the petitioner is verifiable and not in doubt. It is also seen that the respondent has issued the admit card with the petitioner's photograph, though with the mother's name.
12. Accordingly, we are disposed to exercising our extraordinary jurisdiction under Article 226 of the Constitution of India in the petitioner's favour, since we consider this to be a deserving case where the candidature of the petitioner ought not to have been rejected by reason of an innocent and inadvertent error committed by her. While so opining, we are also conscious that by way of this order, the petitioner would only be able to participate in the interview ; and whether or not she ultimately succeeds will be known in the normal and usual course. We make it clear that this order is not intended to be used as a precedent.
13. In the above view of the matter, the writ petition is allowed subject to costs of Rs.5,000/- to be deposited by the petitioner within two weeks with the High Court of Delhi (Middle Income Group) Legal Aid Society. The impugned order passed by the Tribunal is set-aside. We direct the UPSC to carry-out the necessary correction in the petitioner's application form. Consequently, the petitioner will be allowed to participate in the ensuing interview.

14. The writ petition stands disposed of.
15. The oral order passed today shall be communicated by the learned counsel for the respondent to the UPSC today itself.

CM.APPL 53171/2019(stay)

16. The application stands disposed of in view of the order passed in the writ petition.
17. *Dasti* under signature of the Court Master.

G.S. SISTANI, J

ANUP JAIRAM BHAMBHANI, J

DECEMBER 10, 2019

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