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

Date of Decision: 21.10.2019

+ **W.P.(C) 4980/2019 & CM APPL. 38191/2019**

SHRI SUDHIR RANA Petitioner
Through : **Mr. Sachin Chauhan, Advocate.**
versus

GOVT. OF NCT OF DELHI AND ANR. Respondents
Through : **Ms. Avnish Ahlawat, Standing
Counsel for GNCTD (services)
with Mr.Nitesh Kumar Singh,
Advocate.**

CORAM:

**HON'BLE MR. JUSTICE G.S. SISTANI
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI**

J U D G M E N T

G.S.SISTANI, J. (ORAL)

CM APPL. No. 38191/2019 (delay in filing short affidavit)

For the reasons mentioned in the application, the delay of 20 days in filing the short affidavit is condoned.

The application stands disposed of.

W.P.(C) No. 4980/2019

Pursuant to a recruitment advertisement issued in the year 2013 for the post of Constable (Ex) in Delhi Police, the petitioner applied for the said post against the

“Unreserved” category. The petitioner also sought benefits of column 12(a) and (b) of the recruitment instructions i.e. he claimed benefit of height of 178 cms or more and of having an NCC ‘C’ certificate. The petitioner claimed a bonus mark under each of these categories.

2. The complaint of the petitioner is that despite having succeeded in the written examination and having appeared for the Physical Endurance and Measurement Test (PE&MT), his name was not shown in the list of successful candidates.

3. Consequently the petitioner made an application under the Right to Information Act, 2005 and sought reasons for his candidature being rejected in the Selection list. Respondent No. 2 in reply to the RTI application, *vide* Memo dated 04.03.2016, stated that one bonus mark for height was given to the petitioner but since the petitioner did not produce a copy of the NCC ‘C’ certificate during the PE&MT held on 17.10.2013 before the ‘Document Checking Team’, as per the instructions contained in the advertisement, his candidature was rejected.

4. Mr. Chauhan, learned counsel for the petitioner submits that the petitioner possesses an NCC ‘C’ certificate, the original of which he has produced before us and which has been seen and returned and there was no reason for him not to have produced the same when all other original documents were in fact produced. Counsel has also drawn the attention of this court to the Admit Card, which forms part

of the written examination, in which the word 'NCC' finds mention. In short, the submission of Mr. Chauhan is that having an NCC 'C' certificate and having claimed the benefit of one extra mark for possessing an NCC 'C' certificate even at the time of filling-up the form, there was no reason for the petitioner not to produce the original certificate at the time of physical verification of documents by the respondents.

5. Ms. Ahlawat, learned counsel for the respondents has produced the original record of the PE & MT to show that the column of NCC 'C' certificate is shown blank. She explains that there were six sets of officers who were dealing with the PE & MT. While some of the officers had clearly marked 'Yes' in the column of NCC 'C' certificate, where available, the officers dealing with the petitioner's case had left the column blank. She submits that since the column had been left blank, there is a presumption that the petitioner had not produced the original certificate ; and thus, no benefit could accrue in the favour of the petitioner.

6. We have heard learned counsel for the parties and considered their rival contentions. The issue in hand is short and straight-forward.

7. The admitted position is that had the petitioner produced the original NCC 'C' certificate, the petitioner would have been given the benefit of column (12) of the recruitment advertisement, which we reproduce below:-

“12. BONUS MARKS FOR THE POST OF CONSTABLE (EXE.)-MALE

(a) A candidate whose height is 178 cms or more will be given 1 (one) bonus mark.

(b) Candidates possessing NCC ‘C’ certificate will be given 1 (one) bonus mark (This benefit is not available for Ex-servicemen).”

8. The petitioner has produced before us the original NCC ‘C’ certificate. We find that at the time of PE&MT, the officers dealing with each candidate had either left the column blank or had written ‘Yes’ or ‘✓’ or ‘NCC ‘C’ Yes’ or ‘NCC ‘C’ or ‘Yes C’. In some other columns ‘No’ has been written. Several columns have also been left blank.

9. After examining the original records, we find that the officers dealing with the physical verification of original documents at the stage of PE&MT have either been careless in marking the column clearly or were not attentive and meticulous in filling-up the forms, which was the final step towards recruitment of applicants.

10. In our view, it was incumbent upon the officers concerned to either mark ‘yes’ or ‘no’, which has been done in the case of other candidates but in the case of the petitioner, the column for NCC ‘C’ Certificate has been left blank.

11. Having regard to the fact that the petitioner does in fact possess the requisite certificate, we are inclined to give benefit to the

petitioner, who had duly applied, appeared in the written examination and was successful on all other counts. Thus, his candidature cannot be denied on account of a careless and callous attitude of the concerned officers/examiners.

12. Resultantly, the impugned order of the Tribunal is quashed. Subject to the petitioner completing other formalities, if any, the petitioner would be entitled to be considered for the concerned post by adding one more mark towards NCC 'C' certificate. The petitioner would further be entitled to Notional Seniority and pay-fixation along with his batch mates.

13. With the above directions the present writ petition and pending application are disposed of.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

OCTOBER 21, 2019

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