

14.10.2020

rpan / AS08
Court No.24
Video Conference

W.P.A. 7418 of 2020
with
IA No.: CAN 1 of 2020
Sk. Rabiul Islam
- Versus -
Union of India & Others

Mr. Haridas Das,
Mr. Ujjwal Trivedi
... for the petitioner.
Mr. Susanta Gangopadhyay
... for the UOI respondents.

In view of the express undertaking of the petitioner to comply with all the formalities regarding filing including stamping of the petition immediately upon resumption of normal Court business and in view of the urgency pleaded, the application, being IA No. CAN 1 of 2020, is allowed and the writ petition is taken up for hearing.

The present writ petition has been preferred challenging *inter alia* a rejection slip dated 14th February, 2020, issued by the respondent no.5.

Mr. Das, learned advocate appearing for the petitioner submits that the petitioner applied *online* for participation in the Assam Rifles Examination 2018 to be conducted by the Staff Selection Commission for the post of constable (GD) in CAPFS, NIA, SSF AND Rifleman (GD) under OBC category. The petitioner was assigned registration no. 7000313593 and roll no.4412009583. He was thereafter shortlisted and was issued *e-admit* card for Detailed Medical Examination (DME). He duly appeared

before the competent authority on 28th January, 2020 and upon examination he was declared fit on 31st January, 2020. Surprisingly thereafter he was communicated a rejection slip dated 14th February, 2020 issued by the respondent no.5 stating *inter alia* that his candidature had been rejected for “*mismatch in D.O.B. in online application submitted and matriculation certificate*”.

He submits that inadvertently the petitioner incorporated his date of birth as 13th January, 1995 in the application. His actual date of birth is 30th January, 1995, as would be explicit from the Madhyamik Pariksha Certificate issued by the West Bengal Board of Secondary Examination. Such date of birth also stands incorporated in the Certificate of Birth, issued by the Department of Health & Family Welfare, Government of West Bengal. Such error was neither noted by the authorities in course of verification prior to the DME nor by the petitioner. He came to learn about such error only after he received the rejection slip. Stating such facts, he submitted a representation to the respondents on 21st February, 2020 but in vain.

According to Mr. Das, for such inadvertence the petitioner's candidature ought not to have been rejected. In support of such contention he has placed reliance upon a judgment delivered by the High Court at Delhi in the case of *Ravi Sheshrao Rathod Vs. Union of India & Anr.* [W.P. (C)2343/2020].

Mr. Gangopadhyay, learned advocate appearing for the respondents has produced before this Court the recruitment notice of the Staff Selection Commission and the force-wise revised vacancy list. Let copies of the same be kept on record.

Clause (3) of the *“Important Instructions to Candidates”* annexed to the recruitment notice reads as follows:

“Collection of documents from the candidates and their verification will be carried out at the time of DME by the CAPFs. Therefore, candidature will be accepted only provisionally. Candidates are advised to go through the requirements of educational qualification, age, physical standards, etc. and satisfy themselves that they are eligible for the posts, before applying. When scrutiny of document is undertaken during DME, if any claim made in the application is not found substantiated, the candidature will be cancelled straightaway by the CAPFs.”

Clause (12) of the *“Important Instructions to Candidates”* runs as follows:

“Only one online application is to be submitted by a candidate. Therefore, the candidates are advised to exercise due diligence at the time of filling their application forms. In case, more than one applications of a candidate are detected, the Commission will consider latest application. If a candidate submits multiple applications and appears in the examination (at any stage) more than once, his/her candidature will be

cancelled and he/she will be debarred from the examinations of the Commission for three years.

The candidates must write their name, date of birth, father's name and mother's name strictly as given in the Matriculation Certificate otherwise their candidature may be cancelled at the time of Document Verification."

Clause (15) of the "Important Instructions to Candidates" runs as follows:

"Request for change/correction in any particulars in the Application Form, once submitted, will not be entertained under any circumstances."

Placing reliance upon the said clauses, Mr. Gangopadhyay submits that the mistake was committed by the petitioner. Having erroneously incorporated his date of birth in the application submitted, he cannot claim correction on a purported plea of inadvertence.

He contends that there was no obligation on the part of the respondents to consider the representation submitted by the petitioner on 21st February, 2020 for correction of the date of birth. No legal right of the petitioner has been infringed warranting interference of this Court.

In answer to a query of this Court, Mr. Gangopadhyay submits that the selection process is in progress. As the records have been produced there is no further necessity to call for affidavits as there is no factual dispute.

A perusal of the rejection slip reveals that upon giving a tick mark over clause 6 [*Any other discrepancy noticed (specify)*] it has been stated “*mismatch in D.O.B. in online application submitted and matriculation Certificate*”. In the same it has been further stated that “*Individual was declared ‘Fit’ on 31/01/2020. However, during rechecking of documents this error was noticed and rectified and individual was recalled to be rejected on basis of mismatch in D.O.B.*”.

Clause (v) of the recruitment notice runs as follows:

“(V) Collection of required eligibility certificates/ documents from the candidates and their verification will be carried out at the time of Detailed Medical Examination (DME) by the CAPFs.”

Clause (13) of the “*Important Instructions to Candidates*” runs as follows:

“Only the Date of Birth as recorded in the Matriculation/Secondary Examination Certificate or an equivalent certificate available on the date of submission of application will be accepted as proof of date of birth.”

A composite reading of the said provisions reveals that the authorities are under an obligation to verify the documents finally at the time of DME. The authorities also did not note the error as regards the date of birth in the application submitted by the petitioner. Upon verifying the documents filed and after DME, the petitioner was declared fit on 31st January, 2020.

Records clearly reveal that the date of birth of the petitioner is 30th January, 1995. It also appears from the recruitment notice that prior to DME, the candidate is required to appear in the Computer Based Examination (CBE), Physical Efficiency Test (PET) / Physical Standard Test (PST) / Detailed Medical Examination (DME). A candidate is shortlisted and called for DME only after he emerges to be successful in the earlier tests. DME is the last stage of the selection process.

Even if the petitioner's date of birth had been 13th January, 1995, he would have fulfilled the age criterion to participate in the selection process. It does not appear that the petitioner has in any manner intentionally misled the authorities by incorporating his date of birth as 13th January, 1995. The petitioner did not do so to gain any advantage. It was sheer inadvertence on his part and for such inadvertence he cannot be penalized moreso when the selection process is not yet over.

In a similar fact situation, the High Court at Delhi in the case of *Ravi Shesherao Rathod* (Supra) observed that the candidature of the petitioner therein could not have been rejected on the basis of inadvertent incorporation of date of birth in the application and the petitioner therein was permitted to participate in the further selection process.

In the said conspectus, I am of the opinion that after declaring the petitioner fit in DME on 30th January, 2020, the authorities could not have rejected his

candidature only for *“mismatch in D.O.B. in online application submitted and matriculation certificate”*.

Accordingly, the rejection slip dated 14th February, 2020 issued by the respondent no.5 is set aside and the respondents are directed to take further steps towards appointment of the petitioner in a suitable vacancy.

With the above observations and directions the writ petition is disposed of.

There shall, however, be no order as to costs.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this court.

(Tapabrata Chakraborty, J.)