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

+ **W.P.(C) 2343/2020**

RAVI SHESHERAO RATHOD Petitioner

Through: **Mr. Aditya P.Khanna, Adv.**

versus

UNION OF INDIA AND ANR. Respondents

Through: **Mr. N.K.Srivastava, Sr. Adv.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

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11.03.2020

1. The petitioner, a candidate for the process initiated on 21st July, 2018 for appointment of Constable (GD) in Central Armed Police Forces, NIA, SSF and Rifleman (GD) in Assam Rifles Examination 2018, has filed this petition impugning the rejection slip dated 6th February, 2020 rejecting the candidature of the petitioner.
2. The petition came up first before this Court on 2nd March, 2020 when none appeared for the respondents and notice returnable today was issued.
3. The notice is reported to be served on 2nd March, 2020 and the counsel for the respondents appears and states that an opportunity to file counter affidavit be given.
4. The counsel for the petitioner contends that the petitioner has cleared the written, physical standard and the physical efficiency tests and his candidature has been rejected for the sole reason of the petitioner, in the

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on-line application form having wrongly mentioned his date of birth as 11th May, 1994 instead of 5th November, 1994. It is contended that the last date for medical examination for the subject appointment is 13th March, 2020 and if the matter is adjourned, the petitioner may lose out on the appointment in spite of being eligible. It is further contended that the matter is fully covered by the dicta of this court in *Ajay Kumar Mishra Vs. Union of India* 2016 SCC OnLine Del 6553, *Arkshit Kapoor Vs. Union of India* 2017 SCC OnLine Del 10154, *Anuj Pratap Singh Vs. Union Public Service Commission* 2018 SCC OnLine Del 10982 and *Shubham Tushir Vs. Union of India* 2019 SCC OnLine Del 9831.

4. We have in the circumstances enquired from the counsel for the respondents, whether any factual plea is required to be pleaded in the counter affidavit.

5. The counsel for the respondents has fairly stated that no such factual plea is to be pleaded.

6. A perusal of the rejection slip dated 6th February, 2020 shows the rejection to be on the ground of “original 10th standard certificate in support of verification of educational qualification and date of birth not produced” as well as on the ground of “date of birth mentioned in the candidates’ online application does not match with the date of birth as per matriculation certificate. Hence he is rejected due to wrong date of birth”.

7. The counsel for the petitioner has contended that the petitioner belongs to the OBC category and the wrong date of birth in the online application form was inadvertently entered as 11/05/1994 instead of 05/11/1994. It is contended that in the judgments aforesaid it has been

consistently held that after a candidate has participated in the selection process and cleared all the stages successfully, his candidature can only be rejected, after careful scrutiny of the gravity of the lapse and not for trivial omissions or errors. While admitting the error on the part of the petitioner in filling up his date of birth in the online application form, it is contended that the same is inadvertent and trivial.

8. The counsel for the petitioner, to show that the petitioner indeed has cleared all the stages, has drawn attention to the public notice inviting applications, providing the cut-off marks in computer based examination for eligibility to selection as 33% for OBC candidates and the marks details of the petitioner showing the petitioner to have secured 62.30983% marks. Attention is also drawn to page 54 to show the petitioner to have passed the physical standard and physical efficiency examinations/tests.

9. We have enquired from the counsel for the petitioner, whether not one of the reasons given for rejection is of the 10th standard certificate having not been submitted.

10. The counsel for the petitioner has drawn attention to the certificate at page 49 and contends that the same has been submitted. It is also argued that the second reason given of discrepancy in date of birth itself refers to the matriculation certificate.

11. Attention is also invited to the reasoning given in *Ajay Kumar Mishra* aforesaid *inter alia* to the effect that it was not the case of the respondents, that the petitioner had gained any advantage by entering the wrong date of birth in his online application.

12. It is contended that the petitioner, as per the erroneous date of birth entered of 11/05/1994 also was within the prescribed age limit.

13. We are satisfied that the case of the petitioner is covered by the judgments aforesaid of this Court.

14. The petition is thus allowed. The rejection dated 6th February, 2020 of the petitioner on the ground of the petitioner, in the online application having given a date of birth which does not match with his matriculation certificate, is set aside and the petitioner be permitted to participate in the further selection process.

Dasti.

RAJIV SAHAI ENDLAW, J

SANGITA DHINGRA SEHGAL, J

MARCH 11, 2020

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