

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO.11037 OF 2022

Vasudeo s/o Kisan Dhanraj,
Age: 28 years, Occ. Nil,
R/o At Shendwade, Post. Tavkheda,
Tq. Shindkheda, Dist. Dhule.

...Petitioner

Versus

1. The Union of India,
Through Ministry of Home Affairs,
Director General CRPF (Recruitment)
Branch, East Block-07, Level-IV,
Sector-1, R. K. Puram,
New-Delhi-110066.

2. Staff Selection Commission,
Block No.12, CGO Complex,
Lodhi Road, New-Delhi-110003.

...Respondents

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Advocate for Petitioner : Mr. Sandeep D. Munde h/f Mr. S.S.
Gangakhedkar

Advocate for Respondents : Mr. B.B Kulkarni

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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 30th NOVEMBER, 2022.**

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J.) :-

1. Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2. The petitioner has put forth prayer clauses "B" and "C" as
under:-

“B) By an order of this Hon’ble Court, kindly quash and set aside the impugned rejection slip dated 16.09.2022 issued by the officers of respondent No.2 and consequently the petitioner may consider for further recruitment process and if qualified issue appointment order in favour of the petitioner on the basis of rank.

C) Pending hearing and final disposal of this writ petition, the respondents be directed to keep one post vacant as per the rank secured by the petitioner.”

3. The petitioner has completed his S.S.C. and H.S.C. from the State of Maharashtra. He belongs to the S.T. category. His birth record, school record, Aadhaar card, licence etc. consistently indicate his date of birth as 20.9.1994. He was born in village Shedwade, Tq. Shindkheda, District Dhule.

4. The petitioner applied pursuant to an advertisement, published by respondent No.2, the Staff Selection Commission, for recruiting constables (GD- general duty) in the Central Armed Police Forces, (CAPFs), NIA, SSF and Rifleman (GD) in Assam Rifles Examination, 2022. By the impugned rejection slip (candidate’s copy), dated 15.9.2022, signed by the Commandant on 16.9.2022, the petitioner has been informed that his candidature has been rejected on account of mismatch of date of birth with his S.S.C. certificate.

5. Having considered the strenuous submissions of the leaned advocates for the respective sides and despite the vehement

objection raised by Shri Kulkarni, on the basis of the conditions set out in the advisement, we find that this case can be considered on account of the fact that the petitioner's date of birth has been consistently and undisputedly recorded as 20.9.1994. It is only in the S.S.C. certificate, issued by the Maharashtra State Board of Secondary and Higher Secondary Education, Pune, that the date of birth is mentioned as 21.9.1994. Though the difference is of only 1 day, the respondent cannot countenance the difference of even single day, in the date of birth.

6. The relevant conditions, set out in the advertisement germane to the preset cause of action, are as under:-

"5.2 Date of Birth filled by the candidate in the online application form and the same recorded in the Matriculation/ Secondary Examination Certificate will be accepted by the Commission for determining the age and no subsequent request for change will be considered or granted.

12.9 In addition to the Admission Certificate, it is mandatory to carry two passport size recent colour photographs, original valid Photo-ID proof having the **date of birth** printed on the Admission Certificate, such as:

- 12.9.1 Aadhaar Card/ Printout of E-Aadhaar,
- 12.9.2 Voter's ID Card,
- 12.9.3 Driving License,
- 12.9.4 PAN Card,
- 12.9.5 Passport,
- 12.9.6 ID Card issued by University/College/ School,

12.9.7 Employer ID Card (Govt./ PSU),

12.9.8 Ex-Serviceman Discharge Book issued by Ministry of Defence,

12.9.9 Any other photo bearing ID card issued by the Central/ State Government.

19 Important instructions to candidates:

9. 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 or as and when it comes into the notice of the Commission.

15. Request for change/ correction in any particulars in the Application Form, once submitted, will not be entertained under any circumstances. Such requests received through Post/ Fax/ Email/ By hand, etc shall not be entertained."

7. Considering the conditions set out in the advertisement and the facts situation before us, we can foresee the predicament of the petitioner. Taking into account the date of birth mentioned in the S.S.C. certificate, he could have mentioned the same date in the application form. However, he would have faced hurdles in the light of the above reproduced conditions, wherein he is under the mandate to produce Aadhaar card or voters card or driving licence etc., set out below clauses 12.9.1 to 12.9.9. The discrepancy would have been glaring when these documents were to be perused by the respondents.

8. The petitioner immediately approached the S.S.C. Board by making an application in accordance with the procedure prescribed, and after verifying the entire record, the Divisional Secretary of the Board, communicated his decision to the petitioner vide certificate dated 23.9.2022, thereby correcting the date of birth of the petitioner. Accordingly, the corrected S.S.C. certificate has been issued and the discrepancy, therefore, no longer exists. The reason for the petitioner approaching this Court is the rejection slip that was issued on 15-16.9.2022. His grievance is that those candidates, who had scored lesser marks in comparison to his score, have been placed in the final merit list declared on 09.11.2022. However, the cut-off percentage for the S.T. category is as under:-

I)	CISF	54.33%
II)	SSB	50.05%
III)	BSF	48.61%
IV)	ITBP	48.62%
V)	AR (Assam Rifles)	48.69%

The petitioner has scored 61.62%.

9. Shri Kulkarni submits, on instructions, that all the vacancies in the above mentioned 5 categories are said to have filled in by the final result. 38 posts in CISF, 19 in SSB, 32 in BSF, 6 in ITBP and 16 in AR have all been filled in.

10. Considering the heavy fresh admission board of this Court, this petition was taken up for admission hearing and notice was issued on 14.11.2022. It cannot be disputed that the petitioner's score is much

above the cut-off percentage for the S.T. category.

11. The appointment orders have not been issued to any of the candidates, who have been listed in the final result. The appointment orders can be issued only after conduct of scrutiny of the documents/verification of the documents. Therefore, we find that it would be appropriate to direct the respondents to consider the candidature of the petitioner strictly on the basis of his score.

12. This petition is, therefore, partly allowed with a direction to the respondents that the candidature of the petitioner be considered in any of the five services, since he is willing to join any service in which he may get an appointment.

13. Needless to state, if the petitioner's score is more than the last candidate in the final result list, naturally, he can be placed in the slot in which his percentage fits in.

14. Rule is made partly absolute in the above terms.

15. We request the learned counsel for the respondents to communicate this order to the respondents, since it has been dictated in the open court.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

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