

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

201

**CM-5950-CWP-2022 in/and
CWP No.1056 of 2022 (O&M)
DATE OF DECISION : 19th July, 2022**

Sachin

.... Petitioner

Versus

Union of India, Ministry of Defense through Director General, Indian Coast Guard, Coast Guard Headquarters, National Stadium Complex, New Delhi & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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Present : Mr. Rajesh Hooda, Advocate for the petitioner.

Mr. Indresh Goel, Sr. Panel Counsel for respondents-UIO.

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RAJBIR SEHRAWAT, J. (Oral)

1. The petitioner has filed this petition under Articles 226/227 of the Constitution of India, for issuance of a writ in the nature of certiorari for quashing result of the petitioner uploaded on the website of respondent No.2, on 11.01.2022; whereby the petitioner was declared failed in document verification Stage-II of selection procedure despite the fact that he annexed all the documents with the application and there is no discrepancy/inconsistency in any document. The petitioner has already passed the Stage-I examination held on 27.09.2021 by securing 56 marks out of 60 marks; along with certain other prayers.

2. The facts of the case as pleaded are; that the petitioner had applied for the post of Navik (Domestic Branch) with respondent No.2. Since the petitioner belongs to village, therefore, he had to approach the cyber café in town for filling-up his online application form. Accordingly the application form of the petitioner was filled up at the cyber cafe and was uploaded. However, while filling up the particulars in the application,

though the name of the petitioner and other particulars were rightly filled up, however, while filling up name of the father of the petitioner the spelling mistake had happened. Instead of filling-up 'Balwan' the name of the father of the petitioner was filled up as 'Balawan'. As per these particulars the petitioner was permitted to participate in the process of selection up to Stage-II. Although the petitioner had qualified Stage-II but the respondents had pointed out that there was a mismatch qua the name of his father; as filled in the application and as reflected in the documents. Hence, the candidature of the petitioner was sought to be cancelled. The petitioner had approached this court. This court vide order dated 21.01.2022 had permitted the petitioner to participate in the process of selection, however, subject to the decision of the present writ petition. Accordingly, the petitioner has participated in all the stages of the selection process. He was selected as per his merit and currently he is undergoing induction training pursuant to his selection.

3. Arguing the case the learned counsel for the petitioner has submitted that since the application was filled up at cyber café, therefore, the mistake in filling up name of the father of the petitioner was inadvertent and *bonafide* mistake committed by the person who filled up the application form. The same could be noticed only at Stage-II. Accordingly, the petitioner had duly submitted the documents and affidavit to the respondents to prove his identity. All the documents duly matched with the documents uploaded with the application form; with the only difference of spelling in the name of the father of the petitioner as filled-up in the uploaded application form. The objection taken by the respondents is totally hyper-technical. Therefore, the respondents deserve a direction to treat the petitioner as eligible by ignoring such hyper-technical mistake. The writ petition deserves to be allowed.

4. On the other hand, the counsel for the respondents has referred to the written statement filed by them and submitted that it was clearly mentioned in the instructions to be followed by the candidates at the time of filling up the application form that: any discrepancy in filling up the application form shall make the candidature of such candidate liable to be cancelled. Since there is no dispute that the spellings of the name of the father of the petitioner were wrongly mentioned in the uploaded application form, therefore, the respondents had rightly cancelled the candidature of the petitioner. Still further the counsel has submitted that the issue of wrong details being filled up in the application form, qua the present selection process only, was considered by the Delhi High Court and that court has upheld the action of the respondents in cancelling the candidature of several persons, vide judgment rendered in ***Pradeep Kumar Versus Union of India & ors.***, passed in ***WP(C) No.1144 of 2022*** on ***20.01.2022***. Hence, the present petition deserves to be dismissed.

5. Having heard the counsel for the parties and going through the paper book of the case, this court finds substance in the arguments of counsel for the petitioner. It is not even in dispute that all the particulars in the documents of identity, as uploaded by the petitioner at the time of the filling up the application and as produced by him physically, duly matched. Therefore, there is no doubt regarding identity of the petitioner as such. The only objection is that the spelling of the name of the petitioner's father as mentioned in the uploaded application form differs from the one as written in the documents. However, this kind of objection is nothing but hyper-technical objection raised on the part of the respondents. No doubt the instructions issued by the respondents stipulated qua cancellation of the candidature of a candidate in case of mismatch of particulars, however, such a mismatch has to be of the type which affects the identity of the candidate as such. If the mismatch is only in the form of spellings of a

name, though the name remains the same, as is involved in the present case, that cannot be considered an objection qua the identity of the person. Even with a different spelling the name of a person may be pronounced as the same name as he is commonly called. Hence, the objection raised by respondents is hyper-technical objection which deserves to be set aside.

6. Although the counsel for the respondents has relied upon the judgment of Delhi High Court in the case of *Pradeep Kumar (supra)*, however, that judgment is distinguishable on the facts of the case. In that case the mismatch related to identity of the petitioner. In that case the petitioner had uploaded his unverified photograph instead of identity proof as was required to be uploaded as per the stipulations in the application form. Hence, that judgment does not come to the rescue of the respondents.

7. It is not even in dispute that the petitioner had participated in all the stages of process of selection and he has qualified and has been selected as per his own merit. The petitioner is, undisputedly, on induction training after having been selected. These factors also go in favour of the petitioner.

8. In view of the above, this court finds the action of the respondents in cancelling the candidatures of the petitioner to be non-sustainable. Accordingly, the action of the respondents is set aside. The writ petition is allowed.

9. All the pending applications, if any, stand disposed of accordingly.

19th JULY, 2022
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>