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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 06th January 2022*****+ W.P.(C) 13697/2021****ATUL DHARIYA**

..... Petitioner

Through

Ms. Tanya, Adv. for Mr. Ajit
Kakkar, Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through

Mr.Satya Ranjan Swain,
Central Govt. Sr. Panel Counsel
with Mr. Kautilya Birat, Adv.
alongwith Mr. Rajat Mathuria,
Law Officer.**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (Oral)**

The petition has been heard by way of video-conferencing.

1. This petition has been filed by the petitioner praying for a direction to the respondents to allow him to join at INS Chilka and consider him in further enrolment/recruitment process.
2. The petitioner had applied for the post of *Navik* (GD) in the Indian Coast Guard (in short, 'ICG') for the 02/2021 batch. The petitioner cleared the Stage – I recruitment process successfully. The petitioner was thereafter called for the Physical Fitness Test, which



also he successfully completed. However, on examination of his documents, the Recruitment Board declared him as not qualified and failed him on account of some issue with his Caste Certificate. The petitioner states that thereafter he checked his application status online on the portal and the same showed 'Invalid Credentials'.

3. The petitioner claims that in the month of August 2021, his phone was damaged and he did not have money to get it repaired as he belongs to a humble background. For this reason, he was not able to check his result, which was declared and uploaded by the respondents on the website on 12.08.2021. The petitioner further claims that on 14.08.2021 he received an e-mail from the Recruitment Directorate that his case has been re-examined and his documents have been found to be in order and that he has cleared the Stage – II recruitment process. The petitioner claims that as he was unaware of his clearing of the Stage – II recruitment process, he could not report at INS Chilka for the Stage – III recruitment process on 27.08.2021, as directed. The petitioner states that he was unable to report for the Stage – III recruitment process due to negligence and communication gap from the respondents' end as no intimation was given to the petitioner through a text message or through a postal communication of his clearing the Stage – II recruitment process. Such intimation was given only through e-mail, which the petitioner was unable to check because he was using the basic-feature phone and surviving on limited resources.



4. The petitioner claims that he then received an e-mail dated 08.09.2021 from the Recruitment Directorate seeking reason(s) why he had not reported to INS Chilka. He thereafter got his phone repaired on 13.09.2021 and checked his e-mail on 14.09.2021, when he came to know that he had to report at INS Chilka by 27.08.2021. The petitioner claims that he reported at the Headquarters in Noida, on 15.09.2021, when he was asked to report at INS Chilka with all his documents and the police verification report. The petitioner got his police verification conducted and reported at INS Chilka on 21.09.2021 and regularly thereafter, however, he was not allowed to enter the facility or meet any official. On 29.09.2021, the petitioner also submitted a written application to the Commanding Officer at INS Chilka, explaining his inability to report at an earlier stage. The petitioner claims that he cannot be denied employment for the fault of the respondents who had earlier declared him as 'failed' during the verification of the documents, which was later found to be incorrect, thereby declaring him successful in the Stage – II recruitment process, however, intimation thereof was not properly given to the petitioner.

5. On the other hand, the respondent no. 3, in its counter affidavit, has stated that the petitioner was only provisionally failed at Stage – II examination by the Recruitment Board during the verification of the documents at Noida, on 29.06.2021, with a direction to check the final result on his login ID when the results are declared on the ICG website. The petitioner was declared 'pass' for Stage – II during the final scrutiny of the documents by the ICG prior to issuing the E-admit



Card for the Stage – III recruitment process and the same was informed to the petitioner vide e-mail dated 14.08.2021 with a direction to check his result on the ICG website. The petitioner, however, neither checked his login dashboard nor downloaded the E-admit Card. The petitioner also did not report at INS Chilka on 27.08.2021 as directed.

6. The respondents further placed reliance on paragraph 12(r) of the General Guidelines of the Advertisement No. 02/2021, which calls upon the candidates to regularly check their e-mail and the ICG website and warns that the failure to check the e-mail and the ICG website may lead to non-reporting for various recruitment stages by the candidates and consequently, the cancellation of his/her candidature. The relevant Guideline in the Advertisement No. 02/2021, is reproduced hereinbelow:

“12 **General Guidelines**

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(r) Candidates must have valid e-mail ID and mobile no. for successful online registration. The communication by ICG with the candidate will be only through e-mail, SMS on mobile and ICG website. Candidates are directed to check the ICG website and e-mail regularly for any change in recruitment schedule. Failure to regularly check the e-mail and ICG website may lead to non-reporting for various recruitment stages by the candidate and the candidature will be cancelled. No response on the e-mail & update as published on ICG recruitment website will lead to cancellation of candidature. ICG will not be responsible if the candidate fails to regularly



check the important recruitment communication through e-mail and website.”

7. The respondents claim that in the present case, the intimation about the petitioner being successful in the Stage – II recruitment process, was given to the petitioner as per the mode prescribed in the Advertisement No. 02/2021 and therefore, no fault can be attributed to the respondents.

8. The learned counsel for the respondents has further stated that similar advice was given to another twenty-eight candidates who were provisionally declared as ‘failed’ during the verification of the documents. Out of them, eight candidates duly downloaded their E-admit card before the reporting date of State III examination and reported at INS Chilka within the time prescribed, which the petitioner failed to do.

9. The learned counsel for the respondents further submits that the training has commenced in the first week of September 2021 and more than 50% of training has already been completed. He submits that the petitioner, therefore, cannot be inducted into service at this belated stage.

10. We have considered the submissions made by the learned counsels for the parties. At the outset we must note and highlight that the petitioner chose not to file a rejoinder to the counter-affidavit filed by the respondents. Therefore, the submission of the respondents that the petitioner was informed that he had been only provisionally declared as ‘failed’ during the verification of the documents and was



further informed that he should check the final result on his login ID when the results are declared on the ICG website, has remained un rebutted by the petitioner. In such circumstances, no fault can be laid with the respondents for not informing the petitioner by way of a text message or by way of a postal communication inasmuch as paragraph 12(r) of the Advertisement No. 02 of 2021 clearly lays down the mode by which the candidates shall be informed of the recruitment schedule. It further warns the candidates that failure to regularly check the e-mail and the ICG website may lead to non-reporting for various recruitment stages by the candidates and, as a consequence, the cancellation of the candidature. The petitioner should, therefore, have been more vigilant to check his e-mail and the ICG website. He cannot transfer this burden on the respondents. Law can only come to the aid of a person who is vigilant. In the present case, however, we find that the petitioner was not vigilant and therefore, lost out an opportunity of employment.

11. Equally, the explanation of the petitioner that his telephone had been damaged, which he could not get repaired, cannot shift the burden of communication of the result through another mode on the respondents. The petitioner could have accessed his e-mail and/or the ICG website through other modes and instruments like a cyber-cafe or a phone of his friend or family members.

12. Merely because the petitioner was earlier declared as 'failed' and later found as 'passed' on documents verification, also does not create any special equities in favour of the petitioner. As noted



hereinabove, the respondents have claimed that the petitioner was informed that the earlier decision was only provisional in nature and was subject to the decision of the Headquarters. The petitioner has not disputed this submission.

13. We must also take note of the submission of the respondents that the training of the recruits commenced in the first week of September 2021 and more than 50% of the training program has already been completed. No relief, therefore, can be granted to the petitioner at this belated stage.

14. In view of the above, we find no merit in the present petition. The same is accordingly dismissed. There shall be no order as to costs.

NAVIN CHAWLA, J

MANMOHAN, J

JANUARY 6, 2022/Arya/P