

07.08.2024

Sl. No. 165

Ct. No. 23

Srimanta

**IA No.:CAN/1/2022, CAN/2/2023
in
WPA/24098/2022**

**Imran Sk. & Ors.
-Vs.-
Union of India & Ors.**

Mr. Malay Bhattacharyya,
Mr. Subhrajyoti Ghosh

...for the petitioners.

Mr. Kumaresh Dalal,
Mr. Anindya Sundar Das

...for the Union of India.

The petitioners participated in a selection process for recruitment of successful candidates in Group – 'B' and Group – 'C' posts in Border Security Force (in short, BSF) (Water Wing), i.e., Sub-Inspector (Master), Sub-Inspector (Engine Driver), Sub-Inspector (Workshop), Head Constable (Master), Head Constable (Engine Driver), Head Constable (Workshop) and Constable (Crew). This recruitment process was conducted by the Recruitment Board of BSF in terms of an advertisement dated 28th January, 2020. The petitioners say that after being successful in the phase wise examination the name of the petitioners were recommended by the Board for being appointed. It is further alleged that at the time of granting the appointment a mismatch in the documents submitted by the petitioners in course of applying and participating in the examination. The

mismatch was detected in respect of the signatures made by the petitioners in their answer sheet which is the form of Optical Mark Recognition Sheet (in short OMR Sheet). The petitioners say that there cannot be any mismatch in the signatures. That apart and in any event at the time of the examination the left thumb impression of the person actually sitting for the examination was obtained in the OMR Sheets.

In view of the doubt that arose with the respondents the answer script were sent to the Central Forensic Science Laboratory (in short, CFSL). CFSL have submitted a report wherein it has clearly stated that the person who signed in the answer script in the first phase did not sign in the documents in the second phase examination. The report is already on record. The petitioners say that there is a violation of principle of natural justice and the report of the CFSL cannot be sacrosanct. Furthermore, there was no testing of the thumb impression of the petitioners contained in the OMR sheet by the CFSL. The petitioners, therefore, cannot be held responsible for the concocted story of mismatch of signatures propagated against the petitioners. The petitioners say this process of eliminating the petitioners after being successful is against the provisions of Article 14

of the Constitution and the petitioners' right to seek job. The writ petition, therefore, should be allowed.

On behalf of the respondent it is submitted that the doubt that accrued in the minds of the said respondents which resulted in sending the answer scripts (OMR Sheet) of the petitioners for forensic examination by the CFSL has been found to be correct. The report filed by CFSL has already been placed before the Court and it is clear therefor that the signatories in the OMR Sheets at the first phase of the examination were not the signatories to the documents in the second phase of the examination. The act and conduct of the petitioners therefor does not justify in granting the petitioners any further opportunity.

As it is the recruitment process of 2020 and four years have elapsed, all vacancies declared for the said recruitment process have been duly filled in as submitted by the respondents. There is as such no vacant post lying for giving appointment to the petitioners even if they are declared eligible for being appointed.

After hearing the parties and considering the materials-on-record I find that the recruitment Board has adopted the correct procedure by sending the discrepant documents for being checked and tested by

the CFSL an independent agency. The report as stated hereinabove has opined in favour of the mismatch as signature of a particular candidate in the answer script for the first phase does not match with the signature of the said candidate obtained in the second phase. The report clearly says that discrepancy has been observed on the basis of the fundamental differences in the handwriting habits between them. Unless this report is held to be not acceptable the same continues to stare against the petitioners. The petitioners have also not produced any other forensic report to dispute the report submitted by CFSL. The scope of enquiry as to the factual aspect in writ jurisdiction is also limited. In the absence of any further fact finding mechanism the writ petition fails. Moreover, the petitioners are seeking appointment in BSF which is a very sensitive organization. At the very inception if there are doubts as to the integrity and morality of the candidates no employer can repose confidence on them. The violation of principles of national justice alleged by the petitioners in the facts of the case does not warrant much weightage. The writ petition is meritless and is, accordingly, dismissed.

Since the writ petition is finally heard and dismissed all other applications are also disposed of without any further order.

(Arindam Mukherjee, J.)