

28.11.2024
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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 28184 of 2024

Beauti Shit Das Adhikari

-Vs-

The Union of India & Ors.

Mr. Sankarsan Sarkar,
Mr. Mehboob Rahman,
Mr. Tanmoy Sett

.... for the petitioner

Mr. Subhankar Chakraborty,
Ms. Oisani Mukherjee

... for the Union of India

The petitioner submitted an online application form for her candidature to be considered against an Employment Notification dated 12th July, 2024 for engagement of 'Gramin Dak Sevaks' (GDSs). The said online application form is annexed at page 52 of the writ petition as "Annexure P-2". In the said application form, the petitioner has stated her date of birth as "3rd August, 2004". The Employment Notification provided for registration and submission of online application between 15th July, 2024 and 5th August, 2024. It also provided for a 'Correction Window' to edit the online application form between 6th August, 2024 and 8th August, 2024. It was not required to attach any

document with the online application form as per the said Employment Notification.

It is the case of the petitioner that in the initial online application form, the petitioner had applied for her candidature to be considered against 9 posts. The petitioner availed the Correction Window to edit her online application form wherein the petitioner had applied for her candidature to be considered against 28 posts. In course of correcting and/or editing the online application form, the petitioner says that inadvertently, the petitioner had altered the year of birth as “2005” instead of “2004”. The date and month, however, remain unchanged. The petitioner’s name was shortlisted by the selection committee and the petitioner was called for physical verification of the documents in respect of her statements made in the online application form. On 18th November, 2024, when such physical verification of documents was undertaken, it was detected by the selection authority that her date of birth as provided in the corrected online application form did not match with her actual Birth Certificate produced for physical verification. The petitioner says that she also did not notice the inadvertent correction made to the year of birth while editing her online application form and as such, she was taken aback on noticing the same. However, the end result was that due to the mismatch in the

statements made in the online application form and the date of birth in the Birth Certificate produced by the petitioner being different, the petitioner's candidature was rejected. Challenging such rejection, the petitioner has approached this Court with a prayer to allow her to further participate in the selection process after considering her date of birth to be "3rd August, 2004" instead of "3rd August, 2005".

The petitioner in support of her case has relied upon two judgments respectively reported in **2016 SCC OnLine Del 6553 (*Ajay Kumar Mishra Vs. Union of India & Ors*)** and **2024 SCC OnLine SC 2 (*Vashist Narayan Kumar Vs. State of Bihar and others*)**. In the first judgment, *Ajay Kumar Mishra (supra)*, there was also a similar error committed by the applicant. The Division Bench of Delhi High Court after reviewing the law on the subject came to the conclusion that if the mistake is such that it was not intended by the applicant for taking any advantage as to the essential conditions of the recruitment process, the same should be considered to be technical or trivial and not suppression of material information. The candidate should in such a case be allowed to correct the online application form and participate in the selection process on the basis of such corrected parameters. The Hon'ble Supreme Court in *Vashist Narayan Kumar (supra)*, has also proceeded in the same line and has approached the

issue as to whether the error is a material error or trivial in nature. Discussing the relevant legal position the Hon'ble Supreme Court held that by the erroneous information the candidate is not deriving any benefit than the error committed in the application form, which was uploaded is not a material error but a trivial error and the State was not justified in declaring the applicant as having failed on account of the same. The Hon'ble Supreme Court after elaborate discussions had observed that in the background of the case before the Hon'ble Supreme Court, the error in filling up the date of birth as filled up in the application form being 08.12.1997 instead of his birth date as 18.12.1997 in the educational documents was not fatal and permitted the candidate to rectify the same by setting aside and quashing the rejection of the candidature.

On behalf of the respondents it is submitted by referring to Clauses 8(X), 8(XII), 9(ii), 8(iii) and 3.4 that the initial application for on having been corrected and/or edited is considered to be null and void. The only application form which then remains before the Selection Committee is the edited application form. In the edited application form the petitioner has stated her date of birth to be 3rd August, 2005 instead of 3rd August, 2004 as provided in the initial application form. Going by the procedure laid down in the employment

notification and in particular the Clauses referred to by the respondents it is the case of the respondents that no further rectification or correction can or should be allowed. The concerned authority was, therefor, right in rejecting the petitioner's candidature when the date of birth provided in the edited application did not match with the actual date of birth contained in the birth certificate produced by the petitioner for physical verification of the documents. The petitioner, therefor, cannot be permitted to correct the date of birth or allowed to appear in the next stage of the selection process. It is the further case of the respondents that in the event of such rectification is permitted then there will be no sanctity to the terms and conditions laid down in the employment notification which is likely to create a disruption in the selection process as innumerable persons after making such incorrect statement in the online application form will knock the doors of the Court to get the same rectified.

After hearing the parties and considering the materials-on-record, I find that by providing the date of birth as 3rd August, 2005 instead of 3rd August, 2004 the petitioner will not gain any advantage. On the contrary, it would be to her detriment. Even if her date of birth is considered to be 3rd August, 2005 instead of 3rd August, 2004 then also was entitled to participate in the selection process on the age criteria. The minimum

and maximum age for a candidate to appear was 18 years and 40 years respectively as on 05.08.2024 being the last date for submitting the form. The petitioner in case of either date being considered is above 18 years and less than 40 years. Assuming without admitting that there was a misstatement on the part of the petitioner then also she would not stand eliminated from the selection process on the age bar contained in the employment notice. The petitioner, therefor, did not intend to take any advantage by correcting the date of birth as 3rd August, 2005 instead of 3rd August, 2004. Although, at the present a majority of selection process is conducted through online application yet one has to keep in mind that there is a likelihood of human error while filling up the particulars in the online application or committing inadvertent errors while filling up the same or correcting the application form as in the instant case. The petitioner's physical verification of documents took place on 18th November, 2024. The petitioner had immediately approached this Court by filing the writ petition on 25th November, 2024 and had brought to the notice of the Court as to the urgency in the matter. The time between 18th November, 2024 and today (28th November, 2024) is only 10 days and as such there is no inordinate delay on the part of the petitioner in approaching the Court. Keeping in mind the ratio laid down in ***Ajay Kumar Mishra*** (supra) and

Vashistha Narayan Kumar (supra), I am inclined to allow the writ petition by setting aside and/or quashing the decision of the selection committee and/or the competent authority in rejecting the petitioner's candidature on the ground of mismatch between the date of birth indicated in the corrected online application and the actual date of birth borne out from the birth certificate. The petitioner is also permitted to rectify the online application or in the alternative the selection committee and/or the appropriate authority should treat the petitioner's date of birth in her online application to be 3rd August, 2004 instead of 3rd August, 2005. The petitioner should be allowed to participate in the subsequent stage of the recruitment process if not otherwise barred due to any embargo except the mismatch of the date of birth as indicated hereinabove.

Nothing further remains to be adjudicated in the writ petition and the same is accordingly disposed of.

Since I have not called for affidavit, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

(Arindam Mukherjee, J.)