



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of decision: May 6, 2024

+ W.P.(C) 7540/2022

GULSHAN UPADHYAY Petitioner

Through: Mr. Ajit Kakkar, Adv.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Jivesh Kumar Tiwari, Sr. PC with
Mr. Anirudh Shukla, GP and
Ms. Samiksha, Adv. for UOI

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed by the petitioner with the following prayers:

“It is therefore most humbly prayed that this Hon'ble Court may be pleased:

a) To pass a writ of Mandamus directing the Respondents to bring on record all the documents pertaining to the recruitment of the Petitioner.

(b) To pass a writ of Mandamus directing the Respondents to condone the error in the Petitioner's Applications dated 18.10.2021 and 29.10.2021.

(c) To pass a writ of Mandamus directing the Respondents to induct the Petitioner in training in the Indian Navy as MR,

(d) Issue any other/further direction as this Hon'ble Court may deem fit in the facts of the case.”



2. The grievance of the petitioner is that the respondents have arbitrarily denied him induction in the Indian Navy on the ground that the domicile recorded in the online application form is inconsistent with the domicile certificate dated January 11, 2021.

3. According to the learned counsel for the petitioner, the petitioner had qualified the written examination by acquiring as high as 43 marks and therefore was eligible to be considered for appointment. Despite having a domicile certificate as a resident of Aligarh in Uttar Pradesh, inadvertently, he mentioned Uttarakhand in application form. Despite efforts to justify his position that the Uttar Pradesh is the domicile State, the same was not considered by the respondents resulting in his disqualification.

4. On the other hand, learned counsel appearing for the respondents would submit that the post of Sailor (MR) in Indian Navy was earmarked in a state-wise manner and hence the domicile of a particular State would become relevant. He submits that the declaration of domicile as Uttarakhand was a serious lapse on the part of the petitioner as the depiction of the same did not match with the domicile certificate filed by the petitioner that is of Uttar Pradesh. According to him, he had filled Uttarakhand as the domicile State for the simple reason that the cut-off for the State of Uttarakhand is 95% whereas that of Uttar Pradesh is 96%. The petitioner's marks in the qualifying (10th Class) examination were 95%. So the bottom line is that, if he had filled Uttar Pradesh as his domicile State, he would not have been shortlisted for the next stage of examination. It is his submission, that today the post of Sailor (MR) is not in existence in view of the



Agnipath Scheme and the petitioner's case cannot be considered under the Agnipath Scheme. He seeks the dismissal of the writ petition.

5. We agree with the submissions made by the learned counsel for the respondents, as the petitioner has not contested that the cut-off percentage for the State of Uttar Pradesh is 96% in the qualifying examination, i.e., 10th Class and 95% for the Uttarakhand. As the petitioner had secured 95% in his 10th Class, he would not be eligible for appointment from the State of Uttar Pradesh. The only submission made in that regard is that, as per the prevailing grading system of CGPA, i.e., (Cumulative Grade Point Average) wherein the maximum grade point is 10 and the formula for converting CGPA is as follows and no one can achieve 96%:

(Grade Point) X 9.5 = Percentage of the Individual.

6. So in that sense, even if candidates attain maximum marks CGPA of 10/10, the resulting percentage shall be capped at 95%.

7. Without going into the controversy on the aspect as to what could be the percentage to qualify, i.e., whether it should be 96% or less, this Court is of the view that as per the stand taken by the respondents that the recruitment to the post of Sailor (MR) has been replaced with Agnipath Scheme and that the last batch of Sailor (MR) has completed their training in July, 2022, no direction can be given to consider the case of the petitioner under the Agnipath Scheme as the Agnipath Scheme, involves a separate process of recruitment, which has not been undertaken by the petitioner.



8. In the facts of this case, we find that no interference is called for with the impugned action of the respondents. The petition is dismissed. No costs.

V. KAMESWAR RAO, J

RAJNISH BHATNAGAR, J

MAY 06, 2024/jg