

(2022) 02 DEL CK 0137

In the Delhi High Court

Case No : Civil Writ Petition No. 1704 Of 2022

Aman Yadav

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 11-02-2022

Acts Referred:

Citation : (2022) 02 DEL CK 0137

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Rajendra Prasad, Sandeep Tyagi, Anirudh Shukla

Final Decision : Dismissed

Judgement

Navin Chawla, J

The petition has been heard by way of video conferencing.

1. The present petition has been filed seeking direction to the respondent nos. 3 and 4 to verify the documents of the petitioner and to clear him for participation in Stage-III of the recruitment process for the post of Navik (GD) in the Indian Coast Guard (in short, 'ICG').

2. It is the case of the petitioner that pursuant to the advertisement published by the ICG, the petitioner applied for the post of Navik (GD) in the ICG through online mode. The petitioner appeared for and cleared the Stage-I written examination conducted on 27.09.2021 at Vijaywada, Andhra Pradesh. Pursuant to same, the petitioner also qualified Stage-II of the recruitment process, which was a physical examination conducted on 17.11.2021 at the Examination Centre, Goa. The petitioner, however, was declared 'fail' at the time of verification of documents though all his documents were in order and he had produced them for verification.

3. The respondents supplied their counter affidavit through email. The same is taken on record. The learned counsel for the petitioner waived his right to file

rejoinder.

4. In the counter affidavit filed by the respondents, it has been asserted that the candidature of the petitioner was rejected as:-

(a) There was a mismatch of the percentage obtained by the petitioner in his Class XII examination and the percentage uploaded by the petitioner in his online application. The percentage mentioned in the marksheet is 68.80%, while the petitioner had mentioned the same as 69.5% in his application form;

(b) The petitioner had uploaded his Class XII mark-sheet instead of his Category Certificate (OBC) in the online application;

(c) There was a discrepancy with respect to the date of issue of the Category Certificate (OBC), as the petitioner had mentioned 15.01.2021 as the date of issue in his online application form, whereas the date of issue as per the certificate was 14.07.2021.

5. The learned counsel for the petitioner submits that the petitioner had committed a bona fide mistake in mentioning his percentage marks as 69.5% instead of 68.80% as the petitioner was under the impression that the percentage of marks has to be calculated on the basis of the marks obtained only in the subjects of Physics and Mathematics. He further submits that the petitioner inadvertently uploaded his Class XII mark-sheet instead of the scanned copy of his Category Certificate (OBC) with the application form and mentioned the wrong date of the certificate, however, the same is of no consequence as the petitioner had produced the original Category Certificate (OBC) at the stage of document verification.

6. On the other hand, the learned counsel for the respondents submits that the advertisement calling for applications clearly forewarned the applicants that any inconsistency in the documents and the application will lead to failure in document verification and the candidature will be cancelled. The same was again highlighted in the E-Admit Card issued to the petitioner. He submits that the petitioner was, therefore, rightly declared fail by the recruitment board. He submits that the selection process has already been completed, the list has also been declared and the date of 12.02.2022 is fixed for reporting of selected candidates.

7. We have considered the submissions made by both the parties.

8. Paragraph 5 of the advertisement, which called for applications for the ICG as Navik (GD), Navik (Domestic Branch) and Yantrik, states that a mismatch between the documents produced at the verification stage and the documents uploaded as part of the online application would result in cancellation of the candidature. The relevant portion is reproduced herein below:

"5. Selection Procedure. The selection of recruits is based on an all India order of merit on their performance in Stage-I, II, III & IV (explained in detail below) and

the number of vacancies available for the post. Clearing of Stage-I, II, III, IV and satisfactory performance in training is compulsory for recruitment in ICG. All candidates will be compulsorily subjected to biometric, photo identification and document verification during stage-I, II, III & IV of the selection procedure. The details of various stages are as follows: -

xxxxx

(b) Stage-II. Based on the performance in the Computer Based Online Examination, a merit list will be prepared and e-admit card for stage-II will be issued as per the vacancies available and ratio decided by ICG. If the candidate is shortlisted for stage-II then he will be required to upload additional documents as mentioned at Para 6 (c) (iv) & Para 6 (c) (v). E-admit card for stage-II will not be generated till the additional documents are uploaded by the candidates within a time period as mentioned on ICG website. The duration of Stage – II will be from 1 to 2 days. Stage-II involves following test which are only qualifying in nature i.e. either Pass or Fail:-

xxxxx

(ii) Document Verification (Pass/Fail). All the information provided in the online application has to match with all the original documents like grade X/XII/ Diploma mark sheet/photo Identity card/caste certificate/individual subject and aggregate marks. Any inconsistency in all the documents and application with respect to "name, date of birth, parent's name, percentage of marks, validity of documents, caste certificate details etc." will lead to failure in document verification and the candidature will be cancelled. The date of issue of all documents has to be the closing date of application or any date prior to closing date of application. The validity of all the uploaded documents has to be at least up to 30 Apr 22. In case of any mismatch of information provided in the application form, document uploaded (at online application stage-I and II) and original documents produced for physical verification at Stage-II than the candidature will be cancelled."

(Emphasis Supplied)

9. The E-Admit Card issued to the petitioner also warned of cancellation of candidature in case of mismatch in information as provided in the online application and supporting document or uploading a wrong document. Para 14(b) (ix) and (xxvii) of Appendix 'A' of the E-Admit Card further warned the petitioner that the aggregate percentage mentioned in the application not matching with the supporting documents shall be treated as submitting false information in the application form.

10. Admittedly, the petitioner filled his percentage of marks scored in Class XII incorrectly. Not only this, the petitioner uploaded his Class XII marksheet instead of his category certificate. Even the date of the certificate was incorrectly mentioned in his application form. The petitioner, therefore, cannot be heard to

complain about his rejection or term the same as arbitrary.

11. This Court, in its decision dated 20.01.2022, in Pradeep Kumar vs. Union of India and Ors. W.P.(C) 1144 of 2022, has dismissed the petition of a candidate who had inadvertently uploaded his photograph in place of his ID Proof (Aadhar Card), holding as under:

“11. In spite of such clear warning, the petitioner was clearly negligent in uploading his self-photograph instead of his Photo identity proof with the application. The petitioner cannot claim any special equity only because such mistake went unnoticed at the earlier stage of the recruitment process and was noticed only at document verification stage {Refer: T. Jayakumar v. A. Gopu & Anr, (2008) 9 SCC 403}.

12. This Court, in its judgment dated 25.01.2010 in Union Public Service Commission vs. Govt. of NCT of Delhi & Ors., W.P. (C) 10058/2009, held that no deviation from the terms and conditions of an advertisement and rules for the recruitment for a public office shall be permitted, as such deviation would result in gross injustice to the other candidates. In the present case, as is evident from Paragraph 5(B)(b) of the CGNET 01/2022, any mismatch in the documents uploaded during the online application stage and original documents produced would lead to cancellation of candidature. We have been informed that candidature of 382 candidates was cancelled by the respondents at the stage of document verification. No exception can therefore, be made only for the petitioner. Granting relief to the petitioner may put the entire selection process in jeopardy and will make it an unending process.

13. This Court, in its judgment dated 01.02.2017 in Union Public Services Commission vs. Tarun Arora, W.P. (C) 3003/2016 has held that while there is no strait jacket precept to balance the administrative difficulties that may arise as a result of rectifying a lapse, the Court would give precedence to the compelling difficulties which may arise upon considering the application. The relevant portion of the judgment is reproduced hereinbelow:

“14. We appreciate and can understand the frustration of the respondent as he has the requisite qualifications, yet would suffer for the lapse and error on his part in filling the online application form. At the same time, to accept the plea of the respondent in the present case would lay down the wrong precedent, which would lay the foundation for administrative confusion and chaos. The selection process would halt, get stalled, and would possibly collapse.

15. The Courts, while examining such issues have to maintain a right balance between the mistake and chance to rectify the lapse, and the administrative difficulties and consequences. Administrative difficulties, thus, should be balanced with the adverse impact befalling the candidate. A strait jacket precept may not be universally applicable. The nature of the selection process, the terms stipulated, whether the rectification and amendment would make the selection process unyielding and unmanageable, are different facets which must be

considered. Where the application forms are vague and unclear, the benefit must and should be given to the applicant.

16. In the present case, the administrative difficulties which are compelling must be given primacy, for otherwise the selection process would be impede, become disorderly and crumble. The present case does not warrant indulgence and concession to the respondent.”

14. The respondents have stated that the merit list after Stage-II of the recruitment process has already been prepared and posted on the website of the ICG on 11.01.2022; the candidates who have been short-listed, have been asked to report to INS Chilka, Orissa on 12.02.2022 for their medical examination and necessary steps prior to commencement of training. In view of the above development, allowing relief to the petitioner would result in reopening the Merit List and the entire selection process, which for the admitted fault of the petitioner himself; the respondents and other candidates cannot be subjected to.”

12. The above judgment was followed by this Court in its recent judgment dated 04.02.2022, passed in Parvinder vs. Union of India & Ors., W.P. (C) 1864 of 2022 as well where the candidate had inadvertently uploaded a soft copy of his Class X mark-sheet in place of the scanned copy of his Aadhar Card. It was held that the negligence of the petitioner cannot be a ground to direct the Authorities to deviate from the advertisement inviting applications or to reopen the selection process.

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