
(2013) 10 AHC CK 0135

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No"s. 53267 of 2013 and 53269 of 2013

Dev Narayan Petitions

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 23-10-2013

Acts Referred:

Citation : (2014) 102 ALR 54 : (2014) 1 UPLBEC 107

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Advocate : Vijay Gautam, for the Appellant; Firoz Ahmad, for the Respondent

Final Decision : Allowed

Judgement

Sudhir Agarwal, J.—Heard learned Counsel for parties and perused the record. Both these writ petitions involve common and similar question of facts and law, therefore, have been heard together and are being decided by this common judgment.

2. The facts, as are admitted between the parties, in brief are that respondent No. 3 proceeded for recruitment to the post of Coast Guards. Both the petitioners applied for the post of Navik General Duty and were assigned Roll Nos. NNG/DD/U/213/16098 and NNG/NO/U/213/18689 respectively. Petitioners belong to rural area of Districts Agra and Mathura, respectively, in the State of U.P.

3. Petitioner Dev Narain has given his current and permanent address of Village and Post Barwar, Tehsil Kheragarh, District Agra while petitioner Arvind Kumar, has given his current and permanent address of Village Nagla Bharau, Post Jugasana, District Mathura.

4. The first select list was published in June" 2013 declaring 107 candidates successful and call letters were issued to them on 26.6.2013. The candidates were required to join by 14.8.2013.

5. Another select list of 13 candidates was published in July" 2013 and call letters were issued on 12.7.2013 requiring successful candidates to join by 14.8.2013.

6. A third select list was published between 20-22.5.2013 declaring 40 candidates successful therein. Petitioner, Devi Narain, finds mention his name at Sl. No. 19 while the petitioner, Arvind Kumar, is at Sl. No. 11. It is also mentioned therein that call letters have been issued to successful candidates, but due to lack of time, candidates should collect their call letters from Directorate of Recruitment, A-1, Sector-24, Opposite HCL Technologies, NOIDA, U.P. on or before 22.8.2013 and should report at Recruiting Officer INS Chilka, Post Office Chilka, District Khurda, Orissa on 26.8.2013.

7. Petitioners did not receive any call letters at all. Being residents of remote rural areas in the State of U.P., they possess no communication arrangement so as to get the aforesaid information at their will and, hence, were not in a position to find out their result so as to proceed, as per instructions given by respondents, in the select list, declared in August" 2013 (Annexure 4 to both the writ petitions).

8. Petitioners have stated that they could get opportunity to process internet on 30.8.2013 and then came to know about their selection but when proceeded to collect call letters, neither appropriate reply was given by respondents nor any call letter was issued, to enable them to join training at Orissa. Petitioners submitted representations dated 5/6.9.2013 and 16.9.2013 and thereafter have approached this Court in the above two writ petitions.

9. These facts, in general, have been admitted by respondents in the counter affidavit filed in Writ Petition Mo. 53267 of 2013, which learned Counsel for respondents have stated to be read in another writ petition also. In reply to para 11 to the writ petition No. 53267 of 2013, which relates to the facts of publication of third list and non issue of call letters, the respondents, while admitting these averments in para 9 of counter affidavit, have said:

9. That in reply to Para 11 of the Writ Petition, the averment made by the Petitioner is factually correct and agreed to. 40 candidates of Northern Zone were additionally called to report at INS Chilks to make good the induction (medical rejected candidates) and non reporting from the earlier list. This list was uploaded only after taking the approval from Naval Headquarters as Coast Guard cannot send any candidate on its own to INS Chilka after final induction date i.e. 17 Aug 2013. Hence it was decided not to send the call letter by post to candidates to avoid further delay. The candidates were directed to report to Coast Guard Selection Board, Noida (Office of Respondent No. 3) and collect call letter by hand. More than fifty percent of these candidates had collected the call letters by hand. Some of the candidates informed that they were not in position to collect call letter by hand, however, they can report to INS Chilka directly. The call letter of these candidates were directly sent to INS Chilka to facilitate them

to report by 26.8.2013.

10. Respondents have further justified their stand in para 10 and 11 of the counter affidavit which reads as under:

10. That in reply to Para 12 of the Writ Petition, the averment made by the petitioner is factually incorrect and denied. Since there was no option left with the Respondents to inform the candidates through any means other than phone or through the website option as the earlier mode of telegram has already abolished by the Government of India. The Coast Guard Selection Board, Noida (Office of Respondent No. 3) has received only one representation from the petitioner vide Letter No. Nil dated 02 Sep. 13 and a reply had been made to him vide this office letter No. RT/0219 dated 03 Oct. 13 (R-2). The Coast Guard Selection Board, Noida (Office of Respondent No. 3) is not authorized to send any candidate to report later than the induction date/extended induction date at INS Chilks as it creates undue stress on candidates to cope up with the training besides affecting training curriculum. Hence request of the petitioner could not be entertained and same was intimated to him.

11. That in reply to Para 13 of the Writ Petition, the averment made by the petitioner is factually incorrect and denied. The suitable time was given in the main list; however it was not possible to give the same time to these candidates of last list. The cut off date given by the Naval Headquarters is the final for scheduling, planning and conducting the training. The call letters were not sent to these candidates as it would have further delayed their reporting as the cut off extended time was very less and under no circumstances extended further.

11. During the course of arguments, this Court enquired from the learned Standing Counsel, appearing for the respondents, as to how respondents could assume communication of selection to the selected candidates when admittedly result was declared sometimes between 20-22.8.2013 while candidates were directed to collect their call letters by 22.8.2013 from the Recruitment Centre at NOIDA and then to report at Orissa by 26.8.2013, but he could not reply at all. Obviously all the candidates were not in Metropolitan Cities having all times internet and other communication facilities at their call. Most of the candidates, like petitioners, residing in remote rural areas, face ordinary sufferance of Indian rural folk like lack of communication, conveyance and other facilities etc. There was no exception for these two petitioners also. The responsibility lie upon recruitment agency to inform selected candidate(s) well in time, giving them a reasonable opportunity to report at prescribed place for training or joining, as the case may be.

12. In the present case, respondents have admitted that they decided not to issue call letters by post to the candidates declared successful in the third list. This was with an intention to avoid delay. I fail to understand as to what this delay would have done when the candidates had no opportunity to get information of their selection, by any means. In the absence of any

communication to them, how they can be blamed for not reporting for duty or training in time.

13. Obviously the candidates like petitioners, cannot be made to suffer for a total failure on the part of respondents in taking action, well within time, so that selected candidates may have been informed within time giving reasonable further time for joining.

14. Respondents, in the present case themselves are guilty to act in such an unusual and arbitrary manner. This Court by no manner can appreciate their way of working and has no hesitation in condemning the manner in which they have functioned and behaved in this case, in strongest words. In my view, the respondents have tried to cause a serious damage and prejudice to the petitioners, for something, for which they are responsible and entire blame deserves credit to themselves.

15. In view of above, I find no reason to hold that petitioners are not entitled for relief sought for. More so, the conduct and the manner in which respondents have behaved in this case, entitle the petitioners exemplary cost, since here was a case which was avoidable but due to a wholly unmindful and arbitrary functioning of respondents, this litigation has been forced upon them, who are poor, unemployed young educated persons.

16. Both the writ petitions are, accordingly, allowed. Respondents are directed to forthwith issue requisite letters/orders to the petitioners for submitting their joining to the post of Navik, General Duty, in Coast Guard, for which they have been selected finally in the selection held pursuant to Advertisement No. 2/2013 and allow them to join accordingly. Petitioners shall also be entitled for all consequential benefits from the date the persons lower in merit to them have been granted. Petitioners shall also be entitled to cost which I quantify to Rs. 25,000/- for each set of writ petition.