
(2017) 12 DEL CK 0295

In the Delhi High Court

Case No : Civil Writ Petition No. 2140 Of 2015, 6794, 7392, 8233 Of 2016, Civil Miscellaneous No. 34125 Of 2016

Govind Yadav

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 12-12-2017

Acts Referred:

Indian Penal Code, 1860 — Section 419

Citation : (2017) 12 DEL CK 0295

Hon'ble Judges : Hima Kohli, J; Rekha Palli, J

Bench : Division Bench

Advocate : Abhijat, Harsh Vardhan Sharma, Neeraj Kumar, Rajan Sabharwa, Pravesh Joshi

Final Decision : Allowed

Judgement

1. The petitioners herein are aggrieved by the rejection of their candidature for appointment to the post of a Constable in the Railway Protection Force

on the presumption of impersonation. With the consent of the parties, W.P(C) No. 2140/2015 has been treated as the lead matter for the purpose of

arguments. As the facts in all the matters are almost identical and the reliefs prayed for are also similar, for the sake of convenience, the events

narrated in W.P.(C) No. 2140/2015 are being noted in this judgment.

2. In the month of March, 2011, the respondents had issued an advertisement for recruitment to the post of Constable in the Railway Protection Force

(hereinafter referred to as "RPF"). The petitioner, Govind Yadav had applied for the subject post in the OBC category and had appeared in the

written test held on 16.6.2013. In his application for appointment, as desired, the petitioner had given his thumb impression. Subsequently, while

appearing in the written test held on 16.6.2013, the petitioner was called upon to affix his thumb impression on the answer sheet and the attendance sheet which he did. Upon being declared successful in the written examination, the petitioner was called by the respondent/RPF to appear for the physical entrance test (PET) which he cleared on 05.3.2014. Even while participating in the PET, the petitioner was required to affix his thumb impression on the attendance sheet. On clearing the PET, the petitioner was called for an interview on 06.06.2014 when once again, he was required to affix his thumb impression on the attendance sheet. Finally, after the interview was conducted, the petitioner was called for his medical examination on 16.6.2014 and on that occasion too, his thumb impression was taken.

3. Upon completion of the selection process, the respondents declared the final result on 17.9.2014. On finding that his name was not in the list of the selected candidate, the petitioner approached this Court by filing W.P.(C) No. 7866/2014 which was disposed of vide order dated 14.1.2015, with a direction issued to the respondents to convey the decision taken for excluding the name of the petitioner from the final list of selected candidates and if aggrieved by the reasons furnished in the decision, granting him liberty to file a fresh petition on the same cause of action.

4. In view of the aforesaid directions, the respondents conveyed the order dated 20.1.2015 to the petitioner, stating inter alia as follows:-

“In compliance of the order of Hon’ble Court dated 14.01.2015 you are hereby informed that your thumb impression on the application has been found to differ from the thumb impression affixed on the Answer Sheet/OMR whereas sample print out of OMR and PET has been found matching, meaning thereby the applicant is a different person. Your candidature has therefore been rejected on the above ground.

You are also informed that on FIR bearing No. 476/2014 under Section 419 has been filed on 05.12.2014 in Civil Police Station, Sadar,

Jaipur for impersonation against 58 applicant, including you.”

5. Aggrieved by the aforesaid decision, the instant petition came to be filed by the petitioner in February, 2015. Initially, the present petition was dismissed by the predecessor Bench vide order dated 23.3.2015, with an observation that the ridges of the thumb impression of the petitioner as

revealed from the record, were clearly distinguishable even to the naked eyes. Subsequently, when the petitioner filed a review application, the same was allowed vide order dated 16.12.2016 and the earlier order dated 23.3.2015, was recalled.

6. On 06.2.2017, the entire sequence of events as they had unfolded, were recorded in the order including the fact that upon a FIR being filed by the respondent/RPF against the petitioner, criminal proceedings had been initiated against him. In those proceedings, the police authorities had referred both the thumb impressions of the petitioner to the Rajasthan Finger Print Bureau, Jaipur for verification and a report was received by the Rajasthan Police, which was favourable to the petitioner. Resultantly, the criminal proceedings were closed.

7. Taking note of the aforesaid decision, directions were issued to the respondents to refer the thumb impressions of the petitioner to CFSL, Lodhi Road, New Delhi for an independent examination and opinion/report. Pursuant thereto, the CFSL had forwarded a report dated 20.4.2017 to the Dy.

Commissioner Police (West), Rajasthan stating inter alia that the questioned/ admitted thumb impression of the petitioner is identical to his specimen left thumb impressions.

8. The reports submitted both by the Rajasthan Finger Print Bureau and CFSL, Lodhi Road, New Delhi in respect of each of the petitioners, handed over by learned counsel for the respondents/RPF and are taken on record. Additionally, learned counsel for the petitioners and the respondents have separately handed over column wise tabulations reflecting the relevant extract of the report forwarded by the Rajasthan Finger Print Bureau, Jaipur and CFSL, Lodhi Road, New Delhi in respect of each of the petitioners, that are also taken on record.

9. We may note that the CFSL report clearly states that the questioned thumb impressions in respect of the petitioners No.1 in WP(C) 6794/2016, both the petitioners in W.P.(C) 7392/2016 and petitioners No. 4, 10 and 11 in W.P.(C) No. 8233/2016 are identical with their specimen thumb impressions.

As for the remaining petitioners No. 2, 3 and 4 in W.P.(C) 6794/2016 and petitioners No.1-3, 5-7, 9, 12-13 in W.P.(C) NO. 8233/2016, the CFSL report has opined that while some of their questioned thumb impressions are identical to their specimen thumb impressions, some of other questioned

thumb impressions are faint/blurred/smudged and do not contain sufficient number of clear ridge characteristics for the purpose of making a comparison.

10. Mr. Abhijat, learned counsel for the petitioners states that merely because some of the thumb impressions of the petitioners have been found to be faint/blurred/smudged, cannot be a ground to throw a shadow of doubt on them because admittedly, the remaining documents have also been examined by the CFSL and in each case, at least some of the questioned thumb impressions, of either the left or the right thumb of each of the petitioners, have been reported to be identical with their specimen thumb impressions taken on the documents forwarded for verification.

11. Learned counsel submits that in view of the reports submitted by two independent Forensic Agencies, i.e., the Finger Print Bureau, Jaipur, Rajasthan and CFSL, Lodhi Road, New Delhi, the present petitions be allowed and directions be issued to the respondents to issue letters of appointment to the petitioners for the post of Constable in RPF, if they are otherwise qualified, along with all consequential benefits.

12. It is evident that while the Rajasthan Finger Print Bureau, Jaipur has submitted reports that are completely in favour of each of the petitioners, the CFSL, Lodhi Road, New Delhi to whom the matters had been referred pursuant to the orders of this court, for an independent examination and opinion, has given identical reports in favour of all the petitioners in W.P(C) 2140/2015, petitioner No.1 in W.P(C) 6794/2016, both the petitioners in W.P(C) No. 7392/2016 and the petitioners No.4, 10-11 in W.P(C) No. 8233/2016. In respect of the remaining petitioners namely, petitioners No.2,3,4 in W.P(C) No. 6794/2016 and petitioners No. 1-3, 5-7, 9,12-14 in W.P(C) No. 8233/2016, the reports indicate that though the CFSL had found that their questioned thumb impressions on a number of documents were identical to their specimen thumb impressions, a comparison of some of their questioned thumb impressions could not be undertaken as they were either faint or blurred/smudged.

13. Having heard the learned counsels for the parties and on examining the reports forwarded by the Rajasthan Finger Print Bureau, Jaipur and the CFSL, Lodhi Road, New Delhi, we are of the opinion that merely because the thumb impressions of the petitioners on some of the documents referred

to the CFSL, New Delhi were found to be faint/blurred/smudged due to which there could not be any conclusive comparison qua the thumb

impressions on some of the documents, cannot be a ground to disqualify them as admittedly, a number of their questioned thumb impressions have

been reported to be identical with their specimen thumb impressions taken on the documents sent by the respondents to the CFSL for examination. It

is thus evident that the ground of impersonation based on which the candidature of the petitioners was cancelled by the respondents/RPF, is not borne

out from the record. Accordingly the orders rejecting their candidature are unsustainable and are therefore quashed and set aside.

14. As a result, it is directed that subject to the petitioners satisfying the other eligibility criteria laid down by the respondents/RPF, letters of

appointment shall be issued in their favour within four weeks from today. The petitioners shall be entitled to all notional benefits of seniority and pay

fixation upon their joining services. However, they shall not be entitled to any back wages for the relevant period.

15. The writ petitions are allowed and disposed of on the above terms.

16. In view of the peculiar facts and circumstances of the present cases, there are no orders as to costs.