

(2013) 05 DEL CK 0109
In the Delhi High Court
Case No : Writ Petition (C) 3322 of 2013

Purkha Ram

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-05-2013

Acts Referred:

Citation : (2013) 4 ILR Delhi 2619

Hon'ble Judges : Gita Mittal, J;Deepa Sharma, J

Bench : Division Bench

Advocate : N.L. Bareja, for the Appellant; Ashish Nischal, for the Respondent

Final Decision : Dismissed

Judgement

Gita Mittal, J.—The instant writ petitioner had applied for the post of SI/GD through Limited Departmental Competitive Examination-2011(LDCE-2011). He had appeared for the selection process and tests at various stages under unreserved category viz. Written test/physical standard test and medical examination etc. As per the applicable instructions, a candidate was required to secure 45% of qualifying marks in each part of the paper and 50% of marks in aggregate to qualify the written test. A relaxation by 5% in the minimum qualifying marks was admissible to candidates belonging to SC/ST categories. It appears that upon failure of the respondent to recommend petitioner's name for selection and the respondents failure to disclose the reason stating the exclusion of petitioner's name from the list, the petitioner had got served upon them a legal notice dated 10th April, 2012.

2. The case of the petitioner was rejected by way of cryptic reply dated 16th August, 2012 without disclosing the reasons as to under what circumstances, the name of the petitioner was not included in the list of selected candidates.

3. The petitioner had earlier filed a writ petition bearing W.P.(C) No. 5715/2012 which was disposed of by this court vide order dated 13th September, 2012 requiring the respondents to give a parawise reply to the petitioner's legal notice

dated 10th April, 2012.

4. The respondents have, thereafter, sent a response dated 2nd November, 2012 disclosing therein the reasons and circumstances under which the petitioner was shown in the list of successful candidates in the written examination. It was stated that due to an inadvertent and technical error, the name of the petitioner was shown in the list of successful candidates in the written examination. It is stated that the fact that the petitioner was unable to score the minimum qualifying marks in the written examination had rendered him disqualified for the selection.

5. The present writ petition challenges the action of the respondents in not considering the petitioner for award of grace marks in terms of standing order 01-2011. It is urged that the respondents are adequately empowered to waive off the deficiency in petitioner's eligibility by awarding him the benefits of grace marks.

6. The respondents have submitted that to avoid malpractices and to ensure transparency and fairness in conducting the process of examination of SI/GD LDCE-2011, the result of the written examination was declared at each examination centre, however the marks were not mentioned.

7. The petitioner was inadvertently shown as passed in the written examination due to a technical error and was allowed to appear in subsequent tests. The respondents have pointed out that this fact was noticed by them only at the time of preparation of merit list.

8. It is stated by the respondents that the petitioner had got only 42% of marks in part -II of the paper instead of minimum required marks i.e. 45% marks. As such the petitioner was not recommended for selection and appointment.

9. Our attention has been drawn to para 11 of the Standing Order No. 01/2010, which only states that any departure from the instructions of the Standing Order shall be with the approval of the DG. There is nothing in the standing order which stipulates that a candidate who has failed to obtain the prescribed marks in the examination shall be entitled to the award of grace marks. The Standing Order merely sets out the guidelines for conducting the Limited Departmental Competitive examination for the post of SI/GD. The contention of the petitioner is that he should be given the grace marks which would enable a non deserving candidate to steal a march over the deserving persons. This is devoid of merits.

10. The respondents have complied with the directions of this court made vide order dated 13th September, 2012. We do not find any merit in the writ petition which is hereby dismissed.