

(2025) 05 DEL CK 0805

In the Delhi High Court

Case No : Writ Petition (C) No. 3786 Of 2024

Sanjay Kumar Yadav

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 01-05-2025

Acts Referred:

Constitution of India, 1950 — Article 16, 226, 227

Citation : (2025) 05 DEL CK 0805

Hon'ble Judges : C. Hari Shankar, J;Ajay Digpaul, J

Bench : Division Bench

Advocate : Nikhil Bhardwaj, Sarika Singh, Rahul Singh, Ajay Pal

Final Decision : Dismissed

Judgement

Ajay Digpaul, J

1. The instant petition under Articles 226/227 of the Constitution has been filed on behalf of the petitioner seeking the following reliefs:

"I. Issue a Writ of certiorari or any other appropriate writ, order or direction thereby quashing and setting aside the impugned Trade/Skill test result dated 23.02.2024 of the petitioner only to the extent of marks given to him for the purpose of work experience, vide which he has been declared as 'Not Qualified' for appointment on the post of Sub-Inspector (Staff Nurse) in the Paramedical Staff Recruitment Examination 2020;

II. Issue a Writ of Mandamus or any other appropriate writ, order or direction to the Respondents thereby directing the respondents to declare the Petitioner as 'Qualified' candidate in the Trade/Skill Test by considering his work experience of more than five years and as such thereby giving him 5 marks and thereafter call the petitioner for Stage IV i.e. Medical Examination and lastly consider the candidature of the petitioner for appointment on the post of Sub- Inspector (Staff Nurse) with the respondent department as per law;

III. Pass such further and other orders and directions as this Hon'ble Court may deem fit and proper."

Brief facts

2. A recruitment process was initiated by the respondent " Central Reserve Police Force "CRPF", vide an advertisement notice dated 25.06.2020, titled "Paramedical Staff Exam 2020" "Advertisement" for recruitment to various posts including the post of Sub-Inspector (Staff Nurse) which is the subject post before us. By way of the Advertisement, applications were invited for the 175 vacancies for the post in question, in the Level-6 Pay Matrix (Rs.35,400/- – Rs.1,12,400/-).

3. The Advertisement stated that the eligibility criteria prescribed therein, for the post in question, inter alia, mandated that candidates must have passed class 12th from a recognized Board, passed a three and a half years course in diploma in 'General Nursing and Midwifery' from a recognized Board or council; and be registered as a Nurse or Nurse and Midwife with Central Nursing Council or State Nursing Council. Further, the Advertisement explicitly stipulated that candidates possessing work experience in the respective trade would be awarded up to five marks in the Stage III 'Trade/Skill Test', based on the duration of their experience.

4. Pursuant to the above, the petitioner, submitted his application dated 21.08.2020, in the OBC category, and then on 23.12.2020, he appeared in and successfully qualified the Stage-I of the selection process, namely the 'Physical Standard Test' "PST" and 'Physical Efficiency Test' "PET". The same day, he was declared to have cleared the said stage.

5. Subsequently, on 22.06.2023, the Stage-II Written Examination was conducted by the CRPF, in which the petitioner appeared at the Noida, Uttar Pradesh Centre. Thereafter, respondent department declared the results of the Written Examination on 07.02.2024.

6. Pursuant thereto, the petitioner was issued an admit card to appear in Stage-III Trade/Skill Test scheduled for 23.02.2024. As per the records, the said test comprises of 'practical test in the concerned trade (10 marks)', 'knowledge of tools/equipment (05 marks)' and 'experience (05 marks)'. It is to be noted that the Stage-III Trade/Skill Test was qualifying in nature and 09 was the cut-off marks.

7. Accordingly, on 23.02.2024, the petitioner appeared at the designated Centre and participated in the Trade/Skill Test, wherein, the petitioner was declared "not qualified" for the next stage. The petitioner produced the work experience certificate issued by one 'Om Hospital, Rajasthan' dated 01.01.2022 pertaining to the period of 01.03.2016 to 31.12.2021. He was awarded – 03/10 marks in the practical test; 02/05 marks in knowledge of tools; and 00/05 marks in experience.

8. Being aggrieved by the award of 0 marks in the 'experience' category, the

petitioner, on 27.02.2024, submitted a formal representation to the respondent department, addressing his grievances and requesting reconsideration of the aforesaid marks. The said representation, however, remained unanswered. Thus, the instant petition.

9. Heard learned counsel for the parties and perused the record.

Submissions on behalf of the petitioner

10. Mr. Nikhil Bhardwaj, learned counsel appearing on behalf of the petitioner submitted that the impugned Trade/Skill Test Result dated 23.02.2024, declared by the respondent department is irrational and arbitrary to the limited extent that he has been wrongly awarded 0 marks in 'experience' category during the Stage III - Trade/Skill Test and was further declared 'not qualified' to participate in further stage. The arguments thus are as under:

a. The respondent department erred in awarding 0 marks to the petitioner as it did not consider that the petitioner had duly submitted and brought the original experience certificate dated 01.01.2022, issued by one 'Om Hospital, Rajasthan' pertaining to the period of 01.03.2016 to 31.12.2021. The Advertisement provides that marks for the work experience will be given on the basis of experience in the respective trade, i.e., 1 mark for 1 year of work experience, 2 marks for 2 years of work experience, 3 marks for 3 years of work experience, 4 marks for 4 years of work experience and 5 marks for 5 years of work experience. Therefore, the petitioner claims that he is entitled to 5 marks as he has work experience of more than 5 years.

b. Further, nowhere in the application form it is mentioned that it was mandatory to attach the experience certificate with the said form and that the failure to attach the same shall result in rejection of the candidature.

c. Column no. 24 of the application form, where the petitioner allegedly had to mention the details of his work experience, did not have adequate space to mention the complete work experience details of the candidate and due to the same, the petitioner could not mention the said details. Therefore, it cannot be stated that the petitioner had malicious intent or misled the department.

d. The learned counsel also submitted that at page no. 17 of the Advertisement, it has been stated that 'screening of original documents, i.e. educational, experience, technical etc. will be done at the time of skill test'. A plain reading of the same shows that the documents, which were duly produced by the petitioner at the relevant time, would be verified and screened at the time of Trade/Skill Test. Therefore, evidently, there was no mandatory requirement of attaching the experience certificate with the application form.

e. Insofar the allegations regarding the authenticity of the experience certificate is concerned, it is always open for the respondent department to verify the authenticity of the experience certificate submitted by the petitioner.

Submissions on behalf of the respondent department

11. Per Contra, Ms. Sarika Singh, the learned SPC appearing on behalf the respondent department vehemently opposed the instant petition submitting to the effect that the same is liable to be dismissed being devoid of any merit. She submitted the following:

a. During the Trade/Skill Test, it was found that neither the petitioner had mentioned the particulars of his work experience in Column no. 24 of the application form, such as the years of experience, place of experience etc., nor had he attached the photocopy his work experience certificate.

b. As per clause 11 of paragraph no. 16 of the Advertisement, photocopy of all the relevant documents were required to be attached with the application form. However, the same was not complied with by the petitioner and thus, he was given '0' marks and was rightly declared 'not qualified' to participate in the next stage of the recruitment process as he could not attain the cut-off marks which was '9'.

c. The closing date of submitting the application form was 31.08.2020 and as per the petitioner's educational qualification documents, he was issued Diploma Certificate on 28.03.2016, and his internship period was from 01.09.2015 to 29.02.2016, whereas his experience period was from 01.03.2016 to 31.12.2021. She submits that the said chronology of events appears to be not justified as it is not possible to join duty on the next day of termination and that too at a faraway place. It seems that the petitioner was not in possession of experience certificate dated 01.01.2022 at the time of submitting application form as the same was issued after the submission of the application form.

Analysis and Findings

12. Having heard the learned counsel for the parties and perused the record, the limited question for adjudication before us is whether the respondent department erred in awarding 0 marks to the petitioner in 'experience' category during the Stage III - Trade/Skill Test. The relevant portion of the impugned result is as under:

13. Insofar the law is concerned, we are of the view that where public law employment is concerned, decisions affecting fundamental rights under Article 16 of the Constitution must stand the test of reasonableness and fairness. The Courts are empowered to intervene where rules are flouted, or gross injustice is caused.

14. Further, it is a well-established legal principle that minor procedural lapses or technical irregularities, which do not prejudice the rights of other candidates or compromise the integrity of the selection process, should not be grounds for disqualifying a candidate. The emphasis should be on substantive merit rather than on trivial procedural errors.

15. With regard to the same, in *Vashist Narayan Kumar v. The State of Bihar & Ors.* 2024 INSC 2, the Hon'ble Supreme Court, when posed with the issue – 'whether an error committed in the application form, which was uploaded, is a material error or a trivial error and was the authority concerned justified in declaring the candidate as having failed on account of the same', held that after a candidate has participated in recruitment process, an inadvertent error in application form should not result in the cancellation of candidature unless careful scrutiny of the alleged lapse is undertaken. Relevant extracts of the said judgment are as follows:

"xxx xxx xxx ...13. Equally undisputed is the fact that after filling out the application, the appellant cleared the written examination and the Physical Eligibility Test. It was also stated in the counter affidavit that there were 61 unfilled vacancies though it was submitted that it was meant for the Gorkha candidates.

14. We are not impressed with the argument of the State that the error was so grave as to constitute wrong or mis-leading information. We say on the peculiar facts and circumstances of this case. Even the State has not chosen to resort to any criminal action, clearly implying that even they did not consider this error as having fallen foul of the following clause in the advertisement:-

"Instructions to fill online application form are available on the website. It is recommended to all the candidates to carefully read the instructions before filling the online application form and kindly fill the appropriate response in the following tabs. In case, the information given by the candidates found wrong or misleading, the application form will get rejected and necessary criminal actions will also be taken against the candidate."

15. Recently this Bench in *Divya vs. Union of India & Ors.*, 2023:INSC:900 = 2023 (13) Scale 730, while declining relief to candidates who acquired eligibility after the date mentioned in the notification carved out a narrow exception. There, the judgment in *Ajay Kumar Mishra vs. Union of India & Ors.*, [2016] SCC OnLine Del 6563, a case very similar to the facts of the present case, was noted. In *Ajai Kumar Mishra (supra)*, Indira Banerjee, J. (as Her Ladyship then was) speaking for the Division Bench of the Delhi High Court in para 9 stated as under:-

9. It is true that whenever any material discrepancy is noticed in the application form and/or when any suppression and/ or mis-representation is detected, the candidature might be cancelled even after the application has been processed and the candidate has been allowed to participate in the selection process. However, after a candidate has participated in the selection process and cleared all the stages successfully, his candidature can only be cancelled, after careful scrutiny of the gravity of the lapse, and not for trivial omissions or errors."

(emphasis supplied)

The exception for trivial errors or omissions is for the reason that law does not concern itself with trifles. This principle is recognized in the legal maxim - De minimis non curat lex...

xxx xxx xxx"

16. We have perused the work experience certificate dated 01.01.2022 (Annexure P-5) as regard to the work experience of the petitioner which establishes that the petitioner had worked at Om Hospital, Rajasthan from 01.03.2016 to 31.12.2021 as Mail Nurse Staff. We have also perused the contents of the Advertisement (Annexure P-1) and the petitioner's application form (Annexure R-3).

17. In the present petition, the respondent department has relied on clause 11 of paragraph no. 16 of the Advertisement to contend to the effect that photocopies of relevant documents, including the work experience certificate, were to be submitted along with the application form. Since the petitioner allegedly failed to attach the experience certificate or mention relevant details in Column no. 24 of the application form, he was not awarded any marks. Relevant portion of the same is extracted hereunder:

"..16. IMPORATNT INSTRUCTIONS TO CANDIDATES

..11. Photocopy of relevant documents form is required to be attached with application form..."

18. At page no. 17 of the Advertisement, the following has been mentioned which states that the original experience certificate along with other documents will be screened and verified at the time of Stage III.

"xxx xxx xxx

..STAGE - III: TRADE TEST AND SCREENING OF DOCUMENTS

..Screening of original documents i.e. educational, experience, technical etc. will be done at the time of skill test..

xxx xxx xxx"

19. It is noted that in Column no. 24 of the application form, the petitioner has duly stated about his technical qualification as 'GNM' which means that the petitioner had mentioned that he had the work experience of 'General Nursing and Midwifery 'GNM'', however, he did not mention the particulars of his work experience. The relevant portion of the Column no. 24 of the petitioner's application form is reproduced hereinbelow:

20. Further, the petitioner has appended Annexure P-5 with the instant petition

which is a certificate issued by Om Hospital, Rajasthan, dated 01.01.2022, certifying his continuous service as a Male Nurse Staff from 01.03.2016 to 31.12.2021. This certificate, on its face, satisfies the requirement of trade experience. The relevant portion of the same is as under:

21. The experience certificate dated 01.01.2022, which has been placed on record, indicate that the petitioner had work experience from 01.03.2016 to 31.12.2021 as Mail Nurse Staff. The date of application form for recruitment to the subject post is dated 21.08.2020, which is much prior to the issuance of work experience certificate.

22. A perusal of the application form and the work experience certificate clearly indicate that the day on which the application form was submitted, the petitioner was not in possession of the work experience certificate which was issued on 01.03.2022.

23. One more date which goes to the root of the matter is 31.12.2021 which is the last date of petitioner's work experience and thus, it is observed that the said date is much after the date of application form, i.e., 21.08.2020. In view of the same, it can be inferred that the petitioner was not in possession of the work experience certificate on the date on which he had applied for the subject post.

24. In terms of the Advertisement, the basic requirement was to furnish the particulars regarding the work experience. Non-mentioning the said details in Column no.24 suggests that on the date of submission of application form, the petitioner was not in possession of the work experience certificate.

25. Therefore, it appears that the experience certificate annexed with the instant petition was issued subsequent to the date on which the application form was filled and submitted.

26. At this juncture, it is imperative for this Court to observe that the petitioner, being an aspirant to a technical post such as that of Sub-Inspector (Staff Nurse), and possessing the requisite academic qualification of a three and a half years diploma in General Nursing and Midwifery (GNM), ought to have displayed a degree of prudence and clarity in understanding the requirements of the application process.

27. Column No. 24 of the application form, as reproduced above, clearly states that it pertains to "technical qualification and experience". A candidate of reasonable diligence, particularly one trained in a professional nursing discipline, would be expected to understand the purport of this instruction and disclose details relevant to both qualification and experience therein.

28. Perusal of Column No. 24 of the petitioner's application form shows that that the petitioner has entered the acronym "GNM" which does not fulfill the requirement of providing particulars of the experience claimed. With regard to the same, we are of the view that if the petitioner can write "GNM" in the said column, then, he could have also mentioned the period of his work experience,

even if not the complete details of his work experience. The petitioner had applied for the post of Sub-Inspector (Staff Nurse) which brings in high stake responsibility and warrants a candidate who carries prudence, and works with great caution. While the petitioner has sought to explain this lapse on the ground that the size of the column did not permit full disclosure, such a contention is unconvincing and does not explain the total absence of any mentioning of experience in a column which explicitly called for the same.

29. The minimal effort of even indicating a reference to his employment at Om Hospital, Rajasthan—where he now claims to have worked for over five years—was not made.

30. Furthermore, the respondent department, in paragraph no. 5 of its counter affidavit, has taken a categorical stand that considering the chronology of events, the petitioner was not in possession of the aforesaid work experience certificate. Paragraph no. 5 is reproduced hereunder:

"xxx xxx xxx

5. That as per para-6 of Advertisement Notice, closing date of application for subject recruitment was 31/08/2020. As per the Diploma Certificate of the petitioner, issued by Karnataka State Diploma in Nursing Examination Board on 28/03/2016, his internship training period was from 01/09/2015 to 29/02/2016 whereas his experience period was from 01/03/2016 to 31/12/2021 which appears to be not justified as it is not possible to join duty on next day on termination of course at far distance. It seems that petitioner was not in possession of experience certificate at the time of submitting application as well as at the time of Skill/Trade test...

xxx xxx xxx"

31. The petitioner, in his rejoinder, has not specifically denied the above said averment. Rather, he has chosen to rebut solely on the argument that there was no requirement to furnish the copy of his work experience certificate at the initial stage of submission of his application form.

32. In light of the above, this Court cannot be oblivious to the element of negligence on the part of the petitioner in failing to adhere to the application norms in letter and spirit.

Conclusion

33. The law with regard to the consideration of a candidate's qualification or experience is well settled that the same will be seen as on the cut off date for submission of application form.

34. Taking into consideration the foregoing, we are of the view that the petitioner is not entitled to the marks as claimed by him. The dispute as regard to, not granting the marks to the petitioner based on the experience certificate is only that the petitioner has not mentioned anything in the Column no.24 of the

application form where it was required to give details regarding his work experience such as period of experience, place of work etc. As noted hereinabove, if the petitioner has mentioned "GNM" in Column No. 24, he could have also mentioned the other details of his work experience, which he clearly failed to.

35. Therefore, we hold that the petitioner failed to furnish the required information as regards to his work experience at the time of submission of his application form, hence, is not eligible to get any marks towards the work experience.

36. Accordingly, keeping in view the aforesaid discussions, the instant petition stands dismissed being devoid of any merit.

37. No order as to costs.

38. The judgment be uploaded on the website forthwith.