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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 27.11.2024

+ W.P.(C) 10619/2018
SANDEEP KUMAR SINGHPetitioner
Through: Mr. Ajit Kakkar, Adv.

versus

UNION OF INDIA & ANRRespondents
Through: Mr. Jivesh Tiwari, SPC.
Major Anish Muralidhar, Army

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, praying for a direction to the respondents to appoint the petitioner to the post of Soldier (GD).
2. Pursuant to the notification dated 28.10.2017, a recruitment rally was held at 3 EME Centre, Bhopal, in January, 2018. It is the case of the petitioner that the petitioner reported at 3 EME Centre, Bhopal on 01.01.2018, and undertook the entire selection process, which spread over a period of one month. However, by a cryptic correspondence dated 07.02.2018, he was informed that he had not been selected as he had failed in the written examination and his name does not figure in the merit list of the available vacancies for his State.
3. The learned counsel for the petitioner submits that both the above grounds were incorrect, as is evident from the reply received to



an application filed under the Right to Information Act, 2005 (in short, 'RTI'), wherein it has been admitted that the petitioner scored 100 out of 100 marks in the physical fitness test and scored 66 marks out of 100 in the written test and was awarded a bonus of 20 marks for being the son of an ex-serviceman. The reply further confirmed that the cutoff mark was 176 out of 200. The learned counsel for the petitioner submits that, therefore, the assertion of the respondents that the petitioner had failed in his written examination was incorrect, and in fact, the petitioner scored above the cutoff marks.

4. He further submits that, in another reply to the application made by the petitioner under the RTI, the respondents also admitted that the centre was conducting the rally for All India All Caste [AIAC] Vacancies, where candidates from any region in India could participate and there was no fixed vacancy allocated to any particular State. The learned counsel for the petitioner submits that the second ground for rejection of the candidature of the petitioner, that the petitioner could not figure in the merit list of the available vacancies for his State, therefore, was also incorrect and was false.

5. He submits that the respondents should, therefore, be directed to offer an appointment to the petitioner to the post of Soldier (GD).

6. On the other hand, the learned counsel for the respondents submits that the subject recruitment rally was primarily intended for the sons of war widow/widows/ex-servicemen/servicemen and own brothers of service/Ex-servicemen, with priority given to those who belong to the EME Centre. For the said purpose, there were five priorities created as under:-



- a. *“Priority I (Own Regt/Corps)
(Battle Casualty/Liberalized Family Pension)*
- b. *Priority II (Own Regt/Corps)
(Disability Pensioners/Special Family Pensioners)*
- c. *Priority III (Own Regt/Corps)
(Serving/Ex serviceman)*
- d. *Priority IV (Other Regt/Corps)
(Battle Casualty/Liberlised Family Pension)*
- e. *Priority V (Other Regt)
(Disability Pensioners/Special Family Pensioners)”*

7. It was further provided that the selection would be based first on the priority and secondly on the total marks scored. Therefore, simply because the petitioner scored the requisite cutoff marks, the petitioner could not be offered an appointment, as he belonged to ‘Priority V’, being a son of an ex-serviceman who did not belong to the EME but to the Regiments of Guards.

8. He submits that the result is compiled by using the Evaluation, Decoding, Preparation of Merit, and Allotment of Arms and Services [e-DMASS] Software, which is totally automated and therefore, there is no possibility of any tampering with the same.

9. We have considered the submissions made on behalf of learned counsels for the parties.

10. At the outset, we may note with dismay that the petitioner was not informed of the correct reasons for his not making the appointment as a Soldier (GD) in the recruitment rally. This litigation could have been avoided had the petitioner been informed of the reasons for his non-selection.

11. At the same time, as explained by the learned counsel for the respondents, and as is also evident from the recruitment notification



itself, the recruitment process was based on priorities, wherein the petitioner fell in the last priority (Priority V). The respondents have explained that keeping in view his priority and the marks he scored, the petitioner did not make the grade for appointment. We are, therefore, afraid that we cannot grant any relief to the petitioner in the present petition.

12. However, we would expect the respondents to be more careful in responding to the candidates the reasons for which they have not been given an appointment or considered for an appointment in future so as to avoid such litigation which entails cost and time consumption for the candidates who may not be able to afford it and may be making arrangements for the litigation from their meagre resources.

13. The petition is disposed of accordingly.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 27, 2024
SU/SK/DG

Click here to check corrigendum, if any