

Aneesh M Vs. Union of India

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Court : Kerala

Decided On : Jul-24-2015

Judge : Honourable Mr. Justice a.K.Jayasankaran Nambiar

Appellant : Aneesh M

Respondent : Union of India

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937 WP(C).No. 8016 of 2015 (B)

----- PETITIONER(S): ----- ANEESH.M, AGED 21 YEARS, S/O.VENUGOPALAN, MULLATH HOUSE, KOTTAPPURAM P.O. PALAKKAD DISTRICT, PIN - 679 518. BY ADV. SRI.G.ANANTHANARAYANAN RESPONDENT(S)/RESPONDENTS:

----- 1. UNION OF INDIA REPRESENTED BY THE SECRETARY, MINISTRY OF DEFENCE NEW DELHI - 110 001.

2. DIRECTOR ARMY RECRUITING OFFICE, WEST HILL, CALICUT PIN - 673 005. R1,R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24-07-2015 ALONG WITH WPC.NO.18371/2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C).No. 8016 of 2015 (B) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- EXT.P1:

TRUE COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE ISSUED ON 22/05/2009. EXT.P2: TRUE COPY OF THE NOTIFICATION FOR INDIAN ARMY RECRUITMENT RALLY KANNUR ON NOVEMBER 2014 EXT.P3: TRUE COPY OF THE ADMIT CARD RMDS NO. 3034 WITH IVRS CODE 112013034 HAVING ROLL NO. BAN/CAL/GD/010215/1205. RESPONDENT(S)' EXHIBITS ----- //TRUE COPY// P.S.TO JUDGE A.K.JAYASANKARAN NAMBIAR, J.

----- W.P.(C).NO.8016 OF 2015(B) & W.P.(C).NO.18371 OF 2015(V) ----- Dated this the 24th day of July, 2015

JUDGMENT

As the issue involved in both these writ petitions are the same, they are taken up together for consideration and disposed by this common judgment. For the sake of convenience, reference to facts and exhibits is from W.P.(C).No.18371/2015.

2. The petitioners are persons who responded to the Army Recruitment Notification published in November, 2014. As part of the scheme of recruitment, the petitioners were required to subject themselves to a screening process, which, inter alia, comprised of four stages, namely, (i) physical measurement, (ii) physical fitness test, (iii) medical examination and (iv) written examination. After that, a merit list would be prepared and thereafter, the selected candidates enrolled and dispatched in the order of merit to various Centres. The issue involved in the instant case pertains to the screening of candidates for the physical measurement, physical fitness test, W.P.(C).Nos.8016/2015 & 18371/2015 2 medical examination and written examination. It is the case of the petitioners that, while at each stage, there was a biometric verification that was conducted, and the petitioners had undergone the said verification at the stage of physical measurement, physical fitness test and medical examination, when they presented themselves at the venue of the written examination, they were not permitted to write the examination on account of their not clearing the biometric verification at the venue of the written examination. It is for this reason, and when efforts to convince the respondents with regard to a possibility of there being a failure in the system did not yield any positive response, that they have approached this Court through the present writ

petition seeking, inter alia , a direction to the respondents to permit the petitioners to appear at the next written examination that is to be held in connection with the recruitment.

3. In W.P.(C).No.8016/2015, by an interim order dated 8.4.2015, this Court had provisionally permitted the petitioner to take part in the next written examination subject to further orders of this Court. The said interim order was not however passed in the case of the petitioners in W.P.(C).No.18371/2015, since, when that writ W.P.(C).Nos.8016/2015 & 18371/2015 3 petition came up for admission, this Court had directed the Standing counsel for the respondents to get instructions with regard to the functioning of the biometric verification system.

4. A statement has been filed on behalf of respondents 1 and 2, wherein, the procedure for biometric evaluation is detailed. In paragraph 5 of the statement, the procedure for recruitment is enumerated as follows:

5. The procedure for recruitment till exam day is as follows: Day 1 - In the recruitment rally the candidate is first made to run 1.6 kms. If he finishes in the prescribed time, the first print of his thumb is taken which generates a unique number for him with his entire details, to be used for all subsequent verifications. Same day 2 more tests are done - Physical fitness and Physical measurement. On clearing these two, he is asked to come for medicals to be conducted the next day. Day 2 - Medicals - Thumb impression is verified again on which his details gets displayed on the computer screen and he moves for medicals. If the medical result is FIT, admit card is given for Common Entrance Examination to be held on a subsequent date. In summer season the number of candidates would usually be up to 1200 and in rainy season it will be below 500. Date allotment on W.P.(C).Nos.8016/2015 & 18371/2015 4 admit cards are done according to this arrangement. Exam day - Exam starts all over India at 9 am. The time is given as 5 am in the admit card to enable the officers to bio-metrically verify the candidates, supply the question papers and bar coded auto generated answer sheets which are all kept in safe custody in a sealed cover. On the exam duty during verification if the system recognizes the thumb impression, the details of the candidate will get displayed on the screen. If not, the screen will be blank. The computer verifies if

the thumb impression is 45 - 50% clear. Thereafter, a reference is made to the apprehension of the respondents with regard to candidates failing to clear the biometric verification. It is stated that the reasons for a candidate not clearing the biometric verification could be two fold, namely, (i) on account of a system failure or (ii) on account of an attempted impersonation. It is the case of the respondents that there was no reported system failure, and at any rate, there were 1141 number of candidates that took the common entrance examination, who were biometrically verified, and out of the said candidates, only 8 persons did not clear the biometric verification process. The stand of the respondents, therefore, is that permitting the petitioners to appear for the next examination, after clearing a biometric verification, would tantamount W.P.(C).Nos.8016/2015 & 18371/2015 5 to overlooking an attempt at impersonation made at the instance of the petitioners. The respondents would vehemently contend that the petitioners cannot be permitted to appear at the written examination, more so, when they did not clear the biometric verification in the written examination which they had initially attempted to write. The petitioners have filed reply affidavits and additional reply affidavits raising various contentions and traversing the averments in the statement of the respondents. In particular, the petitioners would contend that inasmuch as the notification that was published in connection with the recruitment, did not specifically refer to a biometric verification process, the respondents were not, at any rate, justified in resorting to such a verification process for the purposes of recruitment.

5. I have heard the learned counsel for the petitioners in both the writ petitions as also the learned Assistant Solicitor General of India for the respondents in both the writ petitions.

6. On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I am of the view that the W.P.(C).Nos.8016/2015 & 18371/2015 6 prayer sought for by the petitioners in the writ petitions, namely, to permit them to appear in the next written examination to be conducted in connection with the recruitment for 2014, cannot be granted. It is apparent from a reading of the recruitment notification that the recruitment process contemplated is a comprehensive one which takes in various stages. The

notification itself enumerates the stages of selection and the process of screening and enrollment. The process of screening and enrollment comprises of the following stages: (a) Checking of documents. (b) Physical measurements. (c) Physical fitness test. (d) Medical examination. (e) Written examination. (f) Preparation of merit list. (g) Enrollment and Dispatch of selected candidates in order of merit to Centres. The respondents introduced a biometric verification procedure in connection with stages (b), (c), (d) and (e). This was only an incidental procedure that was introduced by the respondents for the purposes of ensuring an effective implementation of the screening process that was contemplated under the notification. In that sense W.P.(C).Nos.8016/2015 & 18371/2015 7 therefore, the respondents were not introducing any new criteria from what was already notified as the criteria for selection in the notification that was published. The biometric verification process was attached to four stages of the screening process, namely, physical verification, physical test, medical examination and written examination. The scheme for biometric verification envisaged that the biometric verification done at the first stage of physical measurement tallied with the verification done at the subsequent three stages of physical fitness test, medical examination and written examination in respect of the candidates. In the absence of any material to suggest that there was failure of the biometric verification system itself, a non-clearance by a candidate of the biometric verification process, could only cast doubts on the identity of the person presenting himself for screening. It is therefore that, as per the verification process that was put in place by the respondents, the biometric verification had to hold good through all the four stages of physical measurement, physical fitness test, medical examination and written examination, before a candidate could emerge successful in the screening process for recruitment. In the case of the petitioners in the instant writ petitions, while they cleared the biometric W.P.(C).Nos.8016/2015 & 18371/2015 8 verification process at the stages of physical measurement, physical fitness test and medical examination, they did not clear the verification process at the written examination stage. No doubt, counsel for the petitioner would vehemently contend that the non- clearance of the biometric verification process, at the written examination venue, was on account of a failure of the system itself which resulted in the system not capturing the required data properly. While there

could be cases where there is a failure of the system resulting in a non-capturing of data, I do not find any material, in the instant case, which would suggest that there was a system failure. This is more so, when it is stated by the respondents that, out of a total of 1141 candidates, who presented themselves for verification at the venue of the written examination on that day, only eight persons had failed to clear the biometric verification procedure. Of the eight, only three persons are before this Court in the present writ petitions. Thus, I am constrained to hold that there is no material for this Court to take the view that there was any flaw in the verification system that was put in place by the respondents. Resultantly, on account of their not clearing the biometric verification at the screening conducted at the venue of the written examination, the petitioners cannot be held W.P.(C).Nos.8016/2015 & 18371/2015 9 entitled to continue further in the selection process for the recruitment that was notified in Ext.P3 notification. The writ petitions therefore fail, and are accordingly dismissed. A.K.JAYASANKARAN NAMBIAR JUDGE prp

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