



**Central Administrative Tribunal
Principal Bench**

OA No. 818/2017

New Delhi, this the 12th day of February, 2020

Hon'ble Mr. S.N. Terdal, Member (J)
Hon'ble Mr. Mohd. Jamshed, Member (A)

Anita, aged about 27 years (Group 'C' as Female Constable Executive)
D/o Satyaveer
R/o Village Rasulpur Ahiran, Post Pachari Bari
Teh Buhana, Jhunjhunu, Rajasthan – 333151.

...Applicant

(By Advocate : Ms. Manisha Saroha and Mr. Naginder Bir Singh Benipal
for Legal Aid)

Versus

1. Commissioner of Police
Delhi Police Headquarters
MSO Building, Indraprastha Marg
IP Estate, New Delhi – 110095.
2. Additional Deputy Commissioner of Police
Recruitment Cell, New Delhi – 110009.

..... Respondents

(By Advocate : Ms. Harvinder Oberoi)

ORDER (ORAL)

Mr. S.N. Terdal :

Heard Manisha Saroha, counsel for applicant and Ms. Harvinder Oberoi, counsel for respondents, perused the pleadings and all the documents.

2. The relief prayed by the applicant are as follows:

“A. Quash the impugned order dated 21.04.2015 and 09.05.2016 issued by Respondents, being arbitrary, malafide, discriminatory and illegal;



- B. To direct the Respondents to issue an appointment order in view of her selection to the post of Constable (Exe.) Female in the selection process;
- C. Any other relief which this Hon'ble Tribunal may deem fit and appropriate in the circumstances of the case may also be passed in favour of the Applicant.
- D. All consequential benefits may be granted to the Applicant.
- E. Cost of the proceedings by awarded in favour of the Applicant and against the Respondents."

3. The relevant facts of the case are that for having committed an offence under FIR No. 99/2013 dated 01.05.2013 u/s 419 & 420 IPC, was filed against the applicant. Because of her antecedents and character, a show cause notice was given to the applicant and after she submitted the reply, the matter was placed before the Screening Committee which found that the applicant is not suitable for appointment in Delhi Police. The relevant portion of the impugned order dated 21.04.2015 is extracted below :

"No. XII/178/2014/4669Rectt. Cell (R-IV)/NPL dated the 21/4/2015.

To,

Ms. Anita [Roll N. 200283]
D/o Shri Satyaveer
R/o Village Rasulpur Ahiran
Post Pachheri Bari, Tehsil Buhana
District Jhunjhunu, Rajasthan – 333515.

Subject: Recruitment to the post of Constable (Exe.) Female in Delhi Police-2013.
[Cancellation of candidature – regarding].

Memo.

You, candidate Anita D/o Shri Satyaveer R/o Village Rasulpur Ahiran, Post Pachheri Bari, Tehsil Buhana, District Jhunjhunu (Rajasthan) had applied for the post of Constable (Exe.) Female in Delhi Police during the recruitment held in the year 2013 and selected provisionally against Roll No.200283, subject to verification of character & antecedents, medical fitness & final checking of documents etc. On receipt of your character & antecedents report from SP/jhunjhunu (Rajasthan), it was revealed that a criminal case vide FIR No. 99/2013 dated 01.05.2013 u/s 419/420 IPC & 4/6 of Rajasthan, Public Examination (Prevention of unfair means) Act – 1992 was registered at PS/Buhana (Rajasthan) against you. Later on, you were acquitted by the Hon'ble Court Vide order dated 10.09.2014.



On scrutiny of Application Form & Attestation Form filled up by you on 27.02.2013 & 29.08.2014 respectively, it was revealed that you had disclosed the facts of your involvement in the above said criminal case in the relevant column of Attestation Form. Accordingly, your case was examined by a Screening Committee duly constituted by the CP/Delhi consequent upon your acquittal in criminal case FIR No. 99/2013 dated 01.05.2013 u/s 419/420 IPC & 4/6 of Rajasthan, Public Examination (Prevention of unfair means) Act – 1992 was registered at PS/Buhana (Rajasthan).

The Screening Committee observed that the case FIR No. 99/2013 dated 01.05.2013 u/s 419/420 IPC & 4/6 of Rajasthan, Public Examination (Prevention of unfair means) Act – 1992 was registered at PS/Buhana (Rajasthan) was registered on the complaint of one Virpal Singh, Centre Superintendent of Bhura Ram Maha Vidyalaya, Meghpur, District Jhunjhunu (Rajasthan) who stated that on 01.05.2013, at about 07:30 AM one Sonu Yadav was to appear in examination of Sociology, in the first shift, against Roll No. 726367 but in her place you (candidate Anita) was found appearing on checking by him. The case was charge sheeted in the Court of Judicial Magistrate, 1st Class, Buhana. The matter was compounded between the parties U/s 320 (8) of the Cr. P.C. and you were acquitted of the offence U/s 419/420 IPC on compromised basis vide order dated 10.09.2014. However, the case U/s 120-B IPC and 4/6 of Rajasthan, Public Examination (Prevention of Unfair means) Act – 1992 was continued for trial against Ms. Sonu.

The Screening Committee found you involved in a criminal case of impersonation where you appeared in an examination in place of another candidate. The case against you was dropped on compromise. Your acquittal cannot be termed as Hon'ble acquittal. The Screening Committee observed that your involvement in such type of unfair means shows your unethical and immoral conduct and also a pre-meditated tendency to commit crime and disrespect of law. This cannot be expected from a person to be employed in a law enforcing agency and in a discipline forced like Delhi Police. In view of above, the Screening Committee did not recommend your name for appointment to the post of Constable (Exe.) Female in Delhi Police.

Accordingly, a Show Cause Notice was issued to you vide Memo No.1759/Rectt. Cell (R-IV)/NPL dated 16.02.2015 stating therein as to why your candidature for the post of Constable (Exe.) Female in Delhi Police should not be cancelled for the reasons mentioned therein. In response to Show Cause Notice dated 16.02.2015, you submitted an application dated 09.03.2015 requesting therein to extend the period of time for at least 30 days for the submission of reply. Thereafter, you submitted the reply to Show Cause Notice dated 31.03.2015 taking the plea(s) therein that as per the provision of Section 320(8) of Cr. PC, the compromise of an offence under the section shall have the effect of an acquittal of the accused with whom the offence has been compounded, so the acquittal is acquittal for all purpose. You also pleaded that if any party/State was aggrieved with the decision the same could have challenged in the court of law as per procedure and since no appeal has been filed and the period of appeal has been expired, the decision/order has become final. It was also pleaded that the observation of the Screening Committee regarding the acquittal being not Hon'ble is unfortunate and without any sanctity of law and denial of recruitment may tantamount to miscarriage of justice. In the last, you have stated that you are not involved in any other criminal case/proceeding and requested for the withdrawal/filing of Show Cause Notice.

The plea(s) put forth by you in the reply have been considered in detail and found not convincing. It must be stated that you were found involved in a case of impersonation in which you were dropped on compromise basis, as such your acquittal cannot be termed as Hon'ble acquittal. Your involvement in such type of unfair means shows your unethical and immoral conduct as well as a pre-meditated tendency to commit crime.

Since, your contentions have not been found tenable because this cannot be expected from a person to be employed in a law enforcing agency and in a discipline



force like Delhi Police. As such, you are not found suitable for appointment to the post of Constable (Exe.) and your candidature for the post of Constable (Exe.) Female in Delhi Police is hereby cancelled with immediate effect.

(Dr. Joy N. Tirkey)
Addl. By Commissioner of Police
Recruitment Cell, Delhi.”

4. Counsel for the applicant vehemently and strenuously submitted that the above order is followed by another impugned order dated 09.05.2016 being rejection of reconsideration of her application and the said orders are arbitrary.

5. Counsel for the applicant further submitted that sections 46, 47, 48 of Delhi Police Act, 1978 provides for the punishment of dismissal, removal from service, forfeiture of approved service, reduction in pay, withholding of increment and fine not exceeding one month's pay in the case of any wrong committed by the member of the Delhi Police Force. It cannot be guaranteed that a person with no criminal background prior to selection cannot commit any wrong. Hence, the impugned orders dated 21.04.2015 and 09.05.2016 be set aside. The said submission is not tenable.

6. In view of the reasoned and speaking order and having considered her case by Screening Committee under law, the OA is dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(S.N. Terdal)
Member (J)

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