

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/4428/2014

And

O.A./100/4431/2014

New Delhi, this the 26th day of February, 2020



**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

O.A./100/4428/2014

Rajbir Yadav
Roll No.602986,
Date of Birth : 8.5.1974
OBC Category
Marks Obtained 154,
Recruit SI (Ex.) in Delhi Police-2009 (Ph-II)
HC (Ex.) in Delhi Police,
PIS No.28960860
Aged about 40 years
S/o Late Sh. Gungan Ram
R/o B-45, Suraj Vihar,
Opposite NSIT Dwarka,
Near Kakrola More, Delhi-78

...Applicant

(Through Shri Anil Singal, Advocate)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police
PHQ, IP Estate,
New Delhi
2. Deputy Commissioner of Police
Recruitment, New Police Lines,
Kingsway Camp, Delhi

	Roll No.	Name	Date of Birth	Marks
3.	607069	Satendra Singh Gulia	19/7/1981	154
4.	600360	Shailender Yadav	3/8/1981	154
5.	621842	Vijay Mann	10/9/1981	154
6.	621199	Ajay Kumar Moral	1/3/1983	154



7.	626071	Pradeep	9/2/1984	154
8.	601357	Mahipal Singh	24/3/1984	154
9.	609476	Ganga Prasad	20/4/1984	154
10.	621077	Jitender Singh Yadav	9/5/1985	154
11.	603656	Vijay Paal	2/6/1986	154
12.	610335	Naresh Kumar	27/9/1986	154
13.	613456	Gaurav Panwar	2/10/1986	154
14.	604177	Ram Chandra Singh	15/12/1986	154
15.	616945	Himmat Singh	10/5/1987	154
16.	601692	Nitin	26/5/1987	154
17.	614194	Sunil Kumar	9/4/1988	154
18.	601576	Satish Kumar	4/1/1989	154
19.	604500	Rajvendra Singh	13/7/1982	153
20.	600986	Vikram Singh Gulia	10/10/1984	153
21.	604068	Amit Rathi	24/85/1985	153
22.	616121	Karan Paal	3/11/1985	153
23.	609449	Tashbir Mathur	8/3/1986	153
24.	619364	Bhojraj Singh	11/7/1986	153
25.	618173	Yogendre Kumar	6/8/1986	153
26.	614682	Mandeep Kumar	25/5/1987	153
27.	604773	Mahesh Kumar	3/9/1987	153
28.	605727	Pawan Kumar Niraniya	10/3/1988	153
29.	608278	Kuldeep	19/7/1988	153
30.	613806	Satish Kumar	10/4/1982	152
31.	601382	Manoj Kumar	1/9/1982	152
32.	606294	Sapan	25/11/1982	152
33.	600114	Jagender Mathur	2/2/1984	152
34.	600889	Sandeep Kumar	10/5/1984	152

35.	625714	Vasant Kumar	14/11/1984	152
36.	601829	Punit Grewal	16/12/1984	152

(All the above respondents from 3 to 36 are candidates from OBC category who are junior to the applicant but selected and appointed to the post of SI (Ex.) in Delhi Police in Recruitment-2009 (Ph-II), they are to be served through Respondent No.2) ... Respondents



(Through Ms. Rashmi Chopra, Advocate)

O.A./100/4431/2014

Rajender Singh
Roll No.726222,
Date of Birth : 28.4.1969
UR Category
Marks Obtained 148,
Recruit SI (Ex.) in Delhi Police-2009 (Ph-I)
HC (Ex.) in Delhi Police,
PIS No.289000097
S/o Sh. Jai Narain
R/o 1404, Sector-7,
Housing Board Colony, Bahadurgarh,
Distt : Jhajjar, Haryana ...Applicant

(Through Shri Anil Singal, Advocate)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police
PHQ, IP Estate,
New Delhi
2. Deputy Commissioner of Police
Recruitment, New Police Lines,
Kingsway Camp, Delhi

	Roll No.	Name	Date of Birth	Marks
3.	704092	Krishan Gopal	17/12/1976	148
4.	724179	Rohit Sharwat	23/12/1983	148
5.	701551	Vinay Kumar	12/8/1984	148
6.	713570	Ravi Kumar	8/11/1984	148
7.	710815	Dheeraj	11/4/1985	148
8.	729950	Ravinder Singh	16/4/1985	148
9.	719591	Suresh Kumar	6/6/1985	148
10.	711841	Parteek Saxena	26/1/1986	148



11.	732255	Rahul Sharma	8/10/1986	148
12.	702667	Manish Kumar	8/5/1987	148
13.	728923	Dinesh Kumar	6/6/1988	148
14.	733859	Aditiya Singh	4/11/1988	148
15.	715901	Ajit	4/10/1978	147
16.	712528	Arvind Kumar	1/1/1979	147
17.	709968	Vikas Yadav	4/12/1984	147
18.	723382	Sachin Kumar	14/1/1985	147
19.	706914	Rajeev	5/5/1985	147
20.	713598	Manish Kumar	8/11/1985	147
21.	715676	Mohit Malik	1/4/1986	147
22.	722664	Pardeep Kumar	6/6/1986	147
23.	716409	Amit Choudhary	5/9/1986	147
24.	726996	Vishal	18/10/1986	147
25.	716422	Mohit Kumar	7/1/1987	147
26.	715106	Suneel Kumar	30/5/1987	147
27.	708416	Sandeep Singh	20/11/1987	147

(All the above respondents from 3 to 27 are candidates who were selected under UR Category and are junior to the applicants but selected and appointed to the post of SI (Ex.) in Delhi Police in Recruitment-2009 (Ph-I), they are to be served through Respondent No.2) ... Respondents

(Through Ms. Rashmi Chopra, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

Common questions of fact and law are involved in both these OAs. Hence, they are disposed of through this common order.



2. The applicants were appointed as Head Constables in Delhi Police in 1996 and 1990, respectively. The appointment to the post of Sub Inspector is governed by rule 7 of Delhi Police (Appointment and Recruitment) Rules 1980. According to this, 50% of the vacancies are to be filled by promotion on the basis of seniority, 40% through direct recruitment and 10% through the process of Limited Departmental Competitive Examination (LDCE).

3. The applicants took part in the written test conducted for this purpose under the LDCE category. While the applicant in OA 4428/2014 belongs to 'OBC', the applicant in OA 4431/2014 belongs to 'Unreserved' category. It is stated that though the applicants secured more marks, than the cut-off marks in the direct recruitment category, they were not selected on the ground that the marks secured by the candidates selected under the LDCE category are higher.

4. The applicants initially approached this Tribunal by filing OA Nos.3080/2010 and 4031/2010, complaining that the representations filed by them were not disposed of. An order was passed directing the respondents to pass orders. Accordingly, the representations were disposed of rejecting the claim of the applicants. Not satisfied with that, the first applicant filed OA 1723/2011, challenging the order dated 16.03.2011. The OA was dismissed holding that a



candidate under LDCE cannot compare himself with the one, under the direct recruitment category. Writ Petition No.5226/2012 was filed before the Hon'ble High Court of Delhi on this issue and the same was dismissed through order dated 22.05.2013. Thereafter, review petitions were filed and the Writ Petition was allowed on 22.08.2013. It was observed that hardly there exists any distinction between the direct recruitment category and LDCE category, in the context of eligibility and relaxation of age limits. However, direction was issued to the respondents to consider the case of the petitioners therein against the unfilled vacancies, without disturbing the appointments which were already made.

5. The applicants submitted representations in the light of the orders passed by the Hon'ble High Court of Delhi in review petitions. In compliance with the same, the respondents passed order dated 27.12.2013, stating that the applicants herein cannot be accommodated since no vacancies referable to the year 2009 were existing.

6. The applicants contend that once the Hon'ble High Court declared that hardly there exists any distinction between the LDCE and direct recruitment, the entire selection process ought to have been reviewed to be strictly

in accordance with the merit and the respondents did not comply with the same.



7. On behalf of respondents, counter affidavit is filed. It is stated that the direction was only to consider the cases of the applicants against the left over vacancies. Since no such vacancies exist, the question of issuance of offer of appointment, based on the merit at this stage, does not arise.

8. We heard Shri Anil Singal, for the applicants and Ms. Rashmi Chopra, for the respondents.

9. The applicants have initiated three rounds of litigation before the Tribunal and three rounds before the Hon'ble High Court in relation to their claim for appointment as Sub Inspectors. The gist of the adjudication culminating in the review petitions has already been indicated in the preceding paragraphs. The Hon'ble High Court declared that the distinction between the direct recruitment and LDCE cannot be treated as material. In paragraphs 21 and 22, it was observed as under:

“21. One more fact needs to be noted. Undisputedly five vacancies remained unfilled pertaining to the phase I examination and twenty five vacancies remained unfilled pertaining to the phase 2 examination. It may be true that all these vacancies were carry forwarded to the recruitment process initiated in the year 2012, but much before that the petitioners had filed Original

Applications before the Tribunal in the year 2010. It is also an admitted position that on account of stay granted by the Central Administrative Tribunal the recruitment process commenced in the year 2012 is on hold and appointments have not been effected for the said examination.



22. The review applications are accordingly allowed; order dated May 22, 2013 dismissing the writ petitions is obviously recalled and the writ petitions filed are disposed of with a direction to the respondents to consider the candidature of the petitioners as per para 19 above. Such petitioner who would be found entitled to the appointed as a Sub-Inspector either in the category of recruitment for all candidates by way of direct recruitment or under the category of Limited Departmental Competitive Examination would be assigned a seniority as per the merit position in the respective select list. They would be entitled to all consequential benefits but only notionally i.e. no arrears would be paid.”

10. Nowhere, it was mentioned that the selection will be strictly in accordance with the common merit and the appointment of candidates who secured relatively less number of marks be set aside. It is also brought to our notice that the applicants filed Contempt Case No.22/2014 before the Hon’ble High Court and that was also dismissed.

11. The applicants raised their claim only on the basis of the directions issued by the Hon’ble High Court in its order passed in the review petitions, and there is no other legal basis. The only authority and forum that can interpret and enforce such direction effectively, is the Hon’ble High Court itself. Once the Hon’ble High Court dismissed the contempt case, that too without giving liberty to challenge the consequential orders, there does not arise or exist any cause of action for the applicants, to file their OAs.

12. We do not find any merit in the OAs. These are, therefore, dismissed. There shall be no order as to costs. .



(A.K. Bishnoi)
Member (A)

/dkm/

(Justice L. Narasimha Reddy)
Chairman