

Central Administrative Tribunal  
Principal Bench

O.A. No. 1100 of 1999

New Delhi, dated this the 18 December, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Virender Singh Panwar,  
S/o Shri Azad Singh Panwar,  
Vill. & P.O. Thuru (Uldepur),  
Dist. Sonapat,  
Haryana. ... Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Union of India through  
the Secretary,  
Staff Selection Commission,  
12, CGO Complex, Lodhi Road,  
New Delhi-110003.
2. Commissioner of Police, Delhi,  
Police Headquarters,  
I.P. Estate,  
New Delhi-110002. ... Respondents

(By Advocate: Shri V.S.R. Krishna for R-1  
Shri Ram Kavar for R-2)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated  
24.11.97 (Annexure A/1) and seeks appointment as  
Sub-Inspector of Police (Executive) w.e.f. 1994.

2. Admittedly the Staff Selection Commission  
conducted a combined competitive examination for  
recruitment to the posts of S.I. in Delhi Police,  
C.B.I. and Central Police Organisation. The written  
examination was held on 3.7.94. As per notified  
scheme, the examination consisted of two posts viz.  
Part I - Written Examination carrying 600 marks, and

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Part II Personality Test carrying 100 marks each for all the posts. The written test consisted of three Papers viz. General Test, English Language and Language Test.

3 As per examination Notice the SSC had the discretion to fix the minimum qualifying standard in any of the parts/sub-parts of each of the papers of the written examination and penalty for different categories of candidates. The Notice also provided that Paper II and/or Paper III would be evaluated only in respect of those candidates who obtained a minimum qualifying standard in Paper I as may be fixed by the SSC. The SSC accordingly, after evaluating answer scripts of Paper I fixed a certain qualifying standard for that paper for evaluation of Paper II/III. In all 13632 candidates qualified in Paper I for evaluation of Paper II and 4448 candidates qualified in Paper I for evaluation of Paper III. After getting the evaluation of Paper II/III done the SSC fixed certain cut off marks for different categories of candidates on the basis of aggregate marks in paper I and II for CBI and CPOs and in Paper II and III for Delhi Police candidates. No minimum qualifying standard was fixed at this stage for Paper II and III.

4. After completion of personality test/interview, the SSC taking an overall view of the performance of the various candidates in different tests, both severally and collectively, fixed a

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2 minimum qualifying/cut off standard in Paper II/III also (carrying 200 marks). No minimum standard was, however, fixed for the Personality Test/Interview. 21

5. Applicant applied for the post of S.I. of Police (Executive), Delhi. He appeared in the written examination and qualified for the Personality Test/Interview. He also appeared in the Personality Test/Interview, but respondents contend that he could not make it to the final select list of successful candidates for being recommended for appointment as S.I. of Police because of his comparatively low merit position.

6 Meanwhile the legality and constitutionality of the 1994 SSC Examination in respect of posts of S.I. (Delhi Police) was challenged in O.A. No. 2226/95 Vijay Pal and Others Vs. U.O.I. & Ors. and connected cases. That challenge was dismissed by detailed order dated 26.7.96.

7. Against that order dated 26.7.96, SLPs No. 16356-16358/96 were filed in Hon'ble Supreme Court, which were disposed of by order dated 14.8.97 with the direction that in case vacancies were available for appointment on the posts of S.I. (Executive) in Delhi Police for which the impugned selections were made, respondents may consider for appointment against those vacancies, the petitioners and other similarly situated candidates on the basis of merit as per the aggregate of the marks obtained

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by them in all the papers, and if on the basis of such consideration it was found that petitioners could be so appointed, respondents were called upon to appoint them against existing vacancies by relaxing the requirement of minimum qualifying marks prescribed for Hindi in Paper III.

8. Meanwhile applicant had filed O.A. No. 1523/95 for ~~re-~~physical<sup>re-</sup> examination. That O.A. was disposed of by order dated 19.11.96 with a direction to respondents to re-examine applicant physically. Applicant was accordingly re-examined physically on 30.12.96, and his interview took place on 9.1.97.

9. C.P. No. 138-141/98 was filed in the Hon'ble Supreme Court alleging contumacious non-compliance of their order dated 14.8.97. Respondents in Para 4.7 of their reply to the present O.A. state that in their reply to the aforesaid C.P. filed on affidavit, they had submitted that currently no vacancy for the year 1994 was available with Delhi Police, as all the unfilled vacancies for the year 1994 were to be filled with the vacancies available for the year 1995 in the recruitment process for the year 1995.

10. This specific assertion of respondents in para 4.7 of their reply in regard to their reply to the C.P. in Hon'ble Supreme Court has not been denied by applicant in rejoinder.

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11. C.P. No. 138-141/98 came up before the Hon'ble Supreme Court and their order dated 7.8.98 reads as follows:

"In our opinion no case is made out for taking action under Contempt of Court. The contempt petition is, therefore, dismissed and the contempt notices are discharged."

12. Meanwhile by impugned letter dated 24.11.97 on the basis of advice received from Delhi Police authorities the S.S.C. informed applicant and others that no vacancy for the year 1994 was pending against which they could be appointed.

13. On behalf of applicant it has been argued that respondents have not taken a uniform stand, because while earlier they had denied him appointment because of his alleged low merit, but when the Hon'ble Supreme Court had set aside the condition of getting 40% marks in Paper III respondents had given up that ground and had taken the second ground namely lack of vacancies of 1994, it is contended that this ground could not have been validly taken for rejecting applicant's claim as he had been declared selected as a result of the re-test held in accordance with the Tribunal's directions. In this connection it is contended that if applicant was subjected to a re-test in January, 1997 there should have been at least one vacancy as of 1994 available at that point of time, for otherwise respondents would not have subjected him to a re-test. It is further contended that against the 300 vacancies intimated by Delhi Police to SSC in

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1994, against which SSC had admittedly recommended 264 candidates, even after excluding the balance 36 vacancies which were carried forward into subsequent recruitment year, as many as 23 candidates were declared unfit on account of police verification and/or medical examination uptil the date of the Hon'ble Supreme Court's order dated 14.8.97, and applicant could have been appointed against one of the aforesaid 23 vacancies.

14. Respondents, however, deny these assertions regarding the availability of 23 vacancies as a result of the 1994 selections. They point out that out of the 23 candidates mentioned by applicant in his O.A., 7 had left the department in 1997, 2 were still in service; in regard to three candidates, no such person existed against the range number; in regard to 2 candidates their range number had not been mentioned, and in the case of one, he had expired. It is further contended that the vacancies which arise due to resignation/termination etc. of those who had left the Police Dept. in 1997, were treated as vacancies for the year 1997 and not for 1994 because in 1994 these vacancies were filled.

15. We have considered the rival contentions carefully.

16. If applicant's merit position had been high enough based upon his performance in the written test as well as personality test/interview there is

no reason why he should not have been included in the final select list. It is only because his merit position was low, that he could not be included in the final select list. Applicant in Paras 4.5 and 4.6 of his O.A. seeks the benefit of the relaxed standards directed by Hon'ble Supreme Court's order dated 14.8.97 as one of the candidates similarly situated as Vijay Pal & Others who were petitioners in SLP No. 16356-16358/96, but that order was made contingent upon vacancies still being available, after appointment of the selected candidates. Respondents are on record in their reply affidavit as stating before Hon'ble Supreme Court in their reply to C.P. No. 138-141/98 that no vacancy for the year 1994 was available. It is clear that the Hon'ble Supreme Court accepted the averments of the respondents, as it dismissed C.P. No. 138-141/98. Indeed if the Hon'ble Supreme Court was not satisfied with respondent's averments in regard to the availability of vacancies of 1994 it would not have dismissed C.P. No. 138-141/98.

17. That apart, even if applicant were in the select list of candidates of the 1994 selections, that by itself would not earn him a legally enforceable right to compel respondents to appoint him as S.I. of Police against a 1994 vacancy in 2000. It is well settled that mere placement of one's name in the select list does not give that person a legally enforceable right to compel respondents to appoint him. Every select list/panel has a certain duration of life. Even if applicant was on the

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select list/panel as a result of the 1994 selections there is nothing to establish that the life of that select list/panel would stretch over 6 years to 2000. Indeed such an interpretation would itself be violative of the equality clause guaranteed under the Constitution.

18. In the light of the above, we find ourselves unable to grant the relief prayed for by the applicant. The O.A. is dismissed. No costs.

*A. Vedavalli*

(Dr. A. Vedavalli)  
Member (J)

*S.R. Adige*

(S.R. Adige)  
Vice Chairman (A)

/GK/