

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.456 of 1995.

New Delhi, this the 12th day of January, 1996.
HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER(J)
HON'BLE MR R.K. AHOOTIA, MEMBER(A)

1. Anil Kumar (144/Vig) son of Shri Tika Ram Sharma, R/O Vill. & P.O. Nangla Ugrasain, Distt. Bulandshahar (UP), presently working as Constable in Delhi Police.
2. Jitendra Singh (982/SW) son of Shri Bir Pal Singh, R/O Vill. Nathugarhi, P.O. Gulavti Distt. Bulandshahar (UP), presently working as Constable in Delhi Police.

... ... Applicants.

(through Mr. Shyam Babu, Advocate).

vs.

1. Staff Selection Commission through its Secretary, CGO Complex, Lodhi Road, New Delhi.
2. Union of India through the Secretary, Ministry of Home Affairs, North Block, New Delhi.

... ... Respondents.

(through Mr. E.X. Joseph, Advocate).

O R D E R

Smt. Lakshmi Swaminathan, Member(J)

This application has been filed by two applicants under Section 19 of the Administrative Tribunals Act, 1985. They are aggrieved by the verbal order passed by the Staff Selection Commission (SSC), Respondent No.1 dated 19.10.1994, declaring that the applicants are not entitled to appear for the interview for recruitment of Inspectors

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of Central Excise and Income Tax Department etc. Examination, 1993, in pursuance of the letter dated 19.9.1994 (Annexure-C).

2. The brief facts of the case are that the applicants are regularly working as Police Constables with Delhi Police from 1.10.1985 and 1.8.1985, respectively. The post of Constable in Delhi Police is Grade 'C' post (non-technical). Respondent No.1, i.e., SSC had advertised for holding examination for recruitment to the post of Inspectors of Central Excise & Income Tax etc., 1993 (Annexure B/R-1). The applicants had applied for the above post and had sought relaxation of upper age limit provided in para 4(e) of the advertisement, which reads as follows:

"4(e) Upper age limit is relaxable upto the age of 40 years (45 years for Scheduled Castes/Scheduled Tribe candidates) to the departmental candidates who have rendered not less than 3 years continuous and regular service as on 9.8.1993, provided they are working in posts which are in the same line or allied allied cadres and where a relationship could be established that the service rendered in the department will be useful for the sufficient discharge of duties of posts for which the recruitment is being made by this examination.
..... (emphasis added).

3. According to the applicants, since they are working as Police Constables in Delhi Police, they are working in the same line and allied cadres and the relationship between the two posts are fully established and they are entitled to age relaxation, as provided in para 4(e).

4. Shri Shyam Babu, learned counsel for the applicants submits that both the applicants were allowed to appear in the written examination conducted by respondent No.1 and they qualified the same. On the basis of their qualifying the test, they were issued the interview letters dated 19.9.94 to appear for the personality test/interview on 19.10.94. There is no dispute that the applicants have rendered more than 3 years continuous and regular service with the Delhi Police as Constables on the cut off date, i.e. 9.8.1993 and the applicants were beyond the age of 25 years prescribed in the advertisement.

5. The main arguments of Shri Shyam Babu, learned counsel for the applicants are;

a) It has been a common practice to send Delhi Police Personnels on deputation to Central Excise Deptts. etc. He, therefore, claims that there is sufficient relationship between the services rendered by the Constables in the Delhi Police and in the Department of Central Excise to come within the provisions of para 4(e) to allow the applicants the relaxation in upper age limit. He has relied on the office orders dated 2.6.95 and 25.1.95, regarding deputation of Police Constables to Excise Department, which are placed on record.

b) The second ground taken by the applicants' counsel is that the respondents are estopped from denying the applicants permission to appear before the Interview Board as they had already

qualified in the examination. According to him, the applicants fulfilled all the conditions, which were required to be complied with by the interview letter and the action of respondent No.1 to reject their candidature is illegal. The applicants had made a representation to respondent No.1, which was not responded to. The applicants also rely on the Circulars issued to them (Annexure E) by which their applications were forwarded (Pages 43 and 44) by the Delhi Police.

6. The respondents have filed their reply resisting the claims of the applicants. A rejoinder has also been filed by the applicants, in which they have more or less reiterated their grounds taken in the application claiming that they are entitled for the age relaxation, as provided in para 4(e) above.

7. Shri E.X.Joseph, learned counsel for the respondents submits that since the applicants were working as Constables in the Delhi Police and performed different types of duties they did not satisfy the conditions of nexus criterion, as provided in para 4(e) of the Notice for Recruitment of Inspectors of Income Tax, Central Excise etc., 1993. He submits that in terms of DO P&T O.Ms dated 24.10.85 (R-3), and 7.10.87 (R-4), the SSC can examine the case to take a decision whether the nexus principle is satisfied or not in individual cases. According to him, para 4(e) of the advertisement/notice makes it clear that only departmental candidates who have rendered not less than three years continuous and regular service

as on 9.8.1993 and working in posts, which are in the same line or allied cadres and where relationship is established that the service rendered in the department will be useful for efficient discharge of duties of posts to which recruitment was to be made and eligible~~can~~ have the upper age limit relaxed upto~~to~~ the age of 40 years. He has also drawn attention to the duties of Constables (Executive) in Delhi Police and duties of Inspectors Central Excise (R-5 and R-6). He submits that the duties detailed in these Annexures clearly show that the nature of work, duties etc. of Police Constables and those to be performed by Inspector, Central Excise are entirely different and therefore, there is no relationship or nexus between the two posts. Hence he submits that the applicants are not entitled to any relief~~as~~ claimed. He also relies on the judgments of this Tribunal in O.A. No. 780/93 (Calcutta Bench) (Biswanath Baidya vs. Union of India & ors) dated 28.9.1994 and O.A. 1219/93 (Madras Bench) (Union of India and another vs. M/S Paul & Paul etc. dated 25.1.1994, (copies placed on record).

8. His next submission is that having regard to the provisions of para 23 of the advertisement/notice, there is no bar to the Commission verifying the eligibility of the applicants even though they might have been provisionally allowed ^{to appear} them to appear in the examination earlier. He relies on the judgment in (1990) 14 ATC 766 (Distt. Collector and Chairman etc. etc. vs. M. Tripuranundaridevi).

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also
In this case, he has submitted the original official records-files No.1238958 and 1235554 by respondent No.1 showing the application of mind that there is no nexus between the two posts.

9. Shri Joseph further submits that the competent authority to decide the matter is respondent No.1 and unless it is arbitrary, unreasonable or illegal, the Court should not set aside the decision. He relies on the following two judgments:

(i) 1991(2) SCC 295 Director, Lift Irrigation Corporation Ltd. & Ors. vs. Pravat Kiran & others.

(ii) 1991(3) SCC 916. G.B. Mahajan & Ors vs. Jalgaon Municipal Council & Ors.

10. With regard to the question of the Police Constables going on deputation to the Excise Department, the learned counsel for the respondents submits that the orders relied upon by the applicants itself shows that the Police Constables were deputed to the Excise Department as Police Constables and not as Inspectors of the Excise Department.

11. We have carefully considered the arguments of both the learned counsel and the pleadings on record.

12. The main issue raised in this case is whether the applicants are entitled to age relaxation in terms of para 4(e) of the advertisement, which has been reproduced in para 2 above. From a perusal of this paragraph, it becomes clear that the persons, who are seeking the age relaxation by virtue of being departmental candidates should have

been working in posts which are " in the same line or allied cadres and where relationship could be established that the service rendered in the department will be useful for efficient discharge of duties of posts for which the recruitment is being made by the said examination ." Normally, the age limit for examination was 18-25 years as on 1.8.1993. However, this age limit has been relaxed in case of departmental candidates considering the earlier experience, nature of duties, responsibilities etc. Obviously, the age relaxation has only been given to such departmental candidates who can show that the duties discharged by them earlier is so related to the other posts or the duties to be rendered in the department in their new posts, if selected. We have seen the duties which a Constable in the Police is required to perform and the duties to be performed by the Inspector of Central Excise. A mere perusal of the duties attached to these two posts show that there is no nexus between the duties to be performed by the Constable and ~~these~~^{by the} Inspector nor can they be termed to be the in the "same line or allied cadres". We also do not see how the deputation of Police Constables even regularly will help the applicants because they have failed to establish that the Police constables so deputed or in other similar posts in fact worked as Inspectors in the Central Excise Department.

13. We have also seen the files where respondent No.1 took the decision that Constables in Delhi Police have no nexus to

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duties of the Inspectors in Income Tax/Central Excise, who perform different duties such as assisting the Income Tax Officers in verifying the claims etc.

15. ~~etc.~~ are different from the duties performed by a Constable in the Delhi Police. We do not find ^{in this regard} that the decision of the respondent is either arbitrary or unreasonable which justifies any interference in the matter.

14. We also find no merit in the applicants contention that the respondents are barred by equitable estoppel because they have already been allowed to take the examination. Para 23 of the advertisement makes it amply clear that SSC does not undertake any scrutiny of the applications before the written examination and the result of the written examination are declared only on provisional basis.

15. The respondents, have therefore not held *16.* ~~out~~ any representation or promise, which is binding against them, as contended by the applicants. In other words, the respondents are not barred from scrutinising the eligibility conditions of the candidates even after the result of the written examination is declared, as provided in para 23.

16. In the facts and circumstances of the case, we, therefore do not find that the decision taken by the competent authority is either arbitrary or unreasonable or illegal which justifies any interference in the matter under the powers of judicial review.

17. In the result, the application fails and is dismissed. No order as to costs.

/sds/

~~Recd of -~~
(R.K. Anbeja)
Member (A) 12/1/96

Lakshmi Swaminathan
(Mrs Lakshmi Swaminathan)
Member (J) 12/1/96