

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A.No. 768/9699

Date of Decision: 18-2-2000

Shri Manoj Kumar & Ors. ..

APPLICANT

(By Advocate Shri Sama Singh

versus

Union of India & Ors. ..

RESPONDENTS

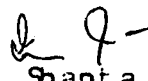
(By Advocate Shri Ajesh Luthra

CORAM:

THE HON'BLE SHRI Justice V.Rajagopala Reddy, VC(J)

THE HON'BLE ~~Smt. Shanta Shastri~~ Smt. Shanta Shastri, MEMBER(A)

1. TO BE REFERRED TO THE REPORTER OR NOT? YES
2. WHETHER IT NEEDS TO BE CIRCULATED TO OTHER BENCHES OF THE TRIBUNAL?


(Smt. Shanta Shastri)
(~~XXXXXX~~)
Member(A)

Cases referred:

1. Radhey Shyam Singh & Ors. Vs. UOI

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.768/96

New Delhi, this 18th day of February, 2000

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Smt. Shanta Shastry, Member(A)

1. Manoj Kumar
Vill. & PO Behror
Dt. Rohtak, Haryana
2. Devender Singh
Vill. & PO Matanhel
Dt. Rohtak, Haryana
3. Amarjeet Singh
Vill. & PO Sansroli
Dt. Rohtak, Haryana
4. Ashwani Kumar
G-4, Type II, New Police Lines
Kingsway Camp, Delhi
5. Naseeb Singh
Vill & PO Sasroli
Dt. Rohtak, Haryana
6. Kailash
Vill. & PO Sasroli
Dt. Rohtak, Haryana
7. Rajbir
Vill. & PO Sasroli
Dt. Rhtak, Haryana
8. Tasvir Singh
Vill. Mohamedpur Majra
PO Kalana, Dt. Sonapat, Haryana
9. Rajesh Kumar
Vill. & PO Kansala
Dt. Rohtak, Haryana
10. Ved Parkash
Vill. & PO Punjab Khore
Delhi

... Applicants

(By Shri Sama Singh, Advocate)

versus

1. Lt. Governor of Delhi
Raj Niwas Marg, Delhi
2. Chief Secretary
Govt. of NCT of Delhi
Alipur Road, Delhi
3. Commissioner of Police
Police Hqrs., New Delhi
4. Addl., Commissioner of Police (Admn.)
Police Hqrs., New Delhi

5. Sr. Addl. Commissioner of Police (AP&T)
Police Hqrs., New Delhi
 6. Dy. Commissioner of Police (HQ-I)
Police Hqrs., New Delhi
 7. Dy. Commissioner of Police, IIIrd Bn/IIInd Bn
Delhi Armed Police,
NPL Kingsway Camp, Delhi ... Respondents
- (By Shri. **Ajesh Luthra**, Advocate)

ORDER

Hon'ble Smt. Shanta Shastri

The Delhi Police Hqrs. had declared 2000 vacancies in the post of Constable in early 1995. It was decided to fill in 1000 vacancies from the recruitment to be held in Delhi/New Delhi and remaining 1000 vacancies by sending Special Recruitment parties headed by Deputy Commissioner of Police to the states. These vacancies were advertised in the Employment News and other dailies.

2. The applicants, ten in number, accordingly applied for the post and appeared before the Assistant Commissioner of Police for physical measurement and physical endurance test. Thereafter they appeared in the written test held on 5.11.95 in New Delhi. The final result of the written test was declared on 10.12.95. Applicants were not called for the interview for being selected finally.

3. Applicants have challenged the results of 10.12.95 and have sought to set aside the same. They have prayed to set aside the special recruitment of Constables who were selected in recruitment in other states and declared qualified for interview. They also want the

respondents to prepare a consolidated result of the candidates appearing in the recruitment held in Delhi/New Delhi and in the states based on interse merits of both categories of candidates. They have also sought that on the basis of consolidated result, based on cut-off marks of 40% for eligibility for interview a fresh list be prepared and the applicants called for interview accordingly. Similarly vacancies of 1000 allocated to other states should also be filled in from amongst candidates whose names have been registered only at Delhi/New Delhi Employment Exchange.

4. The applicants have assailed the results of the selection made for recruiting Constables on the grounds that there was no uniformity in the setting up of questions papers and evaluation of the answer papers. As the evaluation of the candidates appearing from Delhi was done through computer, errors have crept in whereas in the case of recruitment from the states manual evaluation was done. Besides, while in Delhi, candidates securing upto 66% marks were selected, in the states candidates securing lower marks were selected. According to the applicants, those appearing in the States scored a march over those appearing in Delhi. Recruitment process in Delhi took much longer time than the recruitment process in the states. Applicants believe that they got 40% marks i.e. the minimum prescribed and therefore they should have been called for interview.

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5. Applicants approached the respondents and made special requests through their representations to ~~recheck~~ ^{manually} their ~~question and answer~~ ^{answers} papers but did not receive any reply.

6. The learned counsel for the applicants is relying upon the judgement of the Supreme Court in the case of Radhey Shyam Singh & Ors. etc. Vs. UOI decided on 9.12.96 in Civil Appeal No.4190/95. In this judgement it was held that zone-wise selection amounts to discrimination, it causes devaluation of merit and cannot be allowed. The Hon'ble Court ruled that in future no such selection shall be made on zonal basis.

7. The learned counsel for the respondents submits that recruitment policy of Delhi Police is based on the recommendations of the reports of Khosla Commission and Srivastava Committee appointed by the Government of India. Earlier appointment and recruitment in Delhi Police were made under Punjab Police Rules and now under Delhi Police (Appointment & Recruitment) Rules, 1980 (DPARR, for short). The eligibility conditions for the post of Constable are provided under rule 9 of DPARR. Under Rule 9 sub-clause (vi), the Commissioner of Police, Delhi is authorised to frame standing orders prescribing the application form and detailed procedure to be followed for conducting and regulating the recruitment. Accordingly, Standing Order No.212/89 amended from time to time was framed for recruitment of Constables (Executive) in Delhi Police. Recruitment is made in Delhi Police on an all-India basis. Special recruitment of Constables from outside is made keeping



in mind the recommendations of the Khosla Commission and Srivastava Committee. Recruitments of 1995 were made in various states on different dates in order to give proper representations to the states concerned where the teams have been sent by the incharge of recruitment wing of the Police Department. 2976 candidates were declared successful in the written test from Delhi. Applicants did not make the grade in the list of successful candidates and they did not reach upto the merit fixed by the Board in various categories in the written examination and therefore they were declared as failed.

8. Respondents have averred that recruitments have been made strictly in accordance with the provisions of DPARR read with standing order No.212/89. Though the minimum marks for general category and SC/ST candidates are prescribed at 40% and 35% respectively in the written test, it does not necessarily follow that all candidates who secured minimum qualifying marks are eligible for interview. Candidates are called for interview strictly in accordance with their merit and based solely on the availability of vacancies. In Delhi there were 90000 candidates for 1000 vacancies whereas in other states about 1000/1200 appeared against 100/50 vacancies earmarked for those states. In Delhi highly qualified candidates appeared in the test. Their merit was of a very high order compared to the merit fixed for the states during the said recruitment. According to the learned counsel for the respondents, there is no violation of Articles 14 and 16 of the Constitution of India. There being a large number of candidates, it took a longer time for finalisation of the selection.

The special recruitment of Constables from outside is made keeping in view the recommendations of the Khosla Commission and Srivastava Committee reports. Srivastava Committee report observed that "Although there is no bar under the rules to recruit policemen from outside the Union Territory of Delhi, in the past pressures to confine the recruitment of Constables from amongst residents of Union Territory were there. However keeping in view the cosmopolitan character of Delhi population, such pressures should not be allowed to fetter the freedom of the Police Commissioner to recruit policemen from other states. The Group was told that response from people from distant states, particularly non-Hindi speaking states, is not encouraging. There is need to ensure that the constabulary is not confined to Delhi and few adjoining states. There is also a need to ensure that there is no preponderance of any particular caste or community in the number of people recruited in any year in order that Delhi Police can inspire the confidence of the people. It is necessary that its police force should be representative of the various religious groups and communities as far as possible. The recruitment of Constables should be a open system."

9. Respondents have further averred that they have followed the procedure laid down strictly in conducting written test as well as interview. They could resort to the computer evaluation in Delhi because of the facility available in Delhi, whereas the same is not available in some other states.

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10. Learned counsel for the respondents has also submitted that the Tribunal in its judgement dated 15.1.96 in OA No.1603/95 in the case of Ram Avtar Singh Vs. CP/Delhi has stated that the programme of recruitment of constables in Delhi Police at Delhi as well as outside Delhi in 1995 was rightly made. The extract of the judgement is given below:

"During the course of filling up vacancies in any one particular year through one recruitment programme an individual may appear either in Delhi, if he was educated in Delhi and was registered in an Employment Exchange in Delhi; or in any of the centres in the States if he belonged to that State and had his education there. We see no violation of rules or of constitutional provision in such an arrangement"

Considering that the respondents have conducted the selection process in a fair manner, the same cannot be faulted.

11. We have heard both the learned counsel for the applicant as well as the respondents. We find that the respondents have conducted the selection in accordance with the extant rules and the Standing Order issued by the Commissioner of Police. We do not find any infirmity in the selection process. It is very clear that the applicants could not clear the written test to qualify for the interview. The applicants were aware of the procedure laid down for selection. They cannot challenge the same after having gone through the physical measurement and physical endurance test and having appeared in the written test in which they failed. We are supported in our view by the judgement of the Hon'ble Supreme Court in Om Prakash Vs. Ahilesh Kumar reported in AIR 1986 SC 1043, wherein the Hon'ble Court has held as follows:

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Moreover this is a case where the petitioner in the writ petition should not have been granted any relief. He had appeared for the examination without protest. He filed the petition only after he had perhaps realised that he would not succeed in the examination"

Similar view was taken by this Tribunal also in Dhirendra Kumar Vs. UOI in OA No.404/87. The Tribunal held that once the applicant had consented to appear in the selection and had actually appeared, on his failure he cannot now turn around and challenge the very basis of the selection.

12. It is no use finding fault with the computer evaluation. Computer evaluation was done for all those who appeared from Delhi. The recruitment in Delhi cannot be compared with the recruitment in other states. Applicants should compare themselves with those who competed from Delhi/New Delhi. The respondents had earmarked 1000 vacancies each for Delhi and other states. It is a policy decision of the respondents to make recruitments in states to draw persons from the states and to encourage them. The judgement of the Supreme Court cited by the applicants does not apply in this case because the respondents had clearly earmarked separate vacancies for Delhi and the states. The applicants applied in Delhi and failed to succeed. They cannot question the selection in the states as that was exclusively for the vacancies earmarked for the states.

13. In the facts and circumstances of the case we do not find any merit in the application. Accordingly the OA is dismissed. We do not order any costs.

Smt. Shanta Shastri
(Smt. Shanta Shastri)
Member(A)

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice-Chairman(J)

/gtv/