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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 80 of 1996 and

O.A. No. 443 of 1996

New Delhi this the *4* day of December, 1996

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

1. O.A. 80 of 1996

Shri Parvinder Kumar
S/O Shri Srinivas Tyagi
R/o D-5, Old Police Lines,
Rajpur Road,
Delhi.

....Applicant

2. O.A. No. 443 of 1996

Shri Raj Kumar
S/o Shri Kabul Chand
R/o Village Dundariya P.O. Pipli,
Tehsil Behrod District Alwar (Rajasthan)..Applicant

By Advocate Shri Shanker Raju

Versus

1. Union of India/Lt. Governor of N.C.T.
Delhi Through Commissioner of Police,
Police Headquarter,
M.S.O. Building,
I.P. Estate,
New Delhi.

2. The Dy. Commissioner of Police,
3rd Bn.DAP, New Police Lines,
Kingsway Camp,
Delhi-110 00.

..Respondents

By Advocate Shri Vijay Pandita

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

(W) The applicants in these cases are aggrieved

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by the action of the respondent in denying them the appointment to the post of Constables (Executives) in the Delhi Police although they have been selected by a due process of recruitment. As the facts and circumstances are similar, these applications were heard together and are disposed of by this common order.

2. The short point in these applications is whether the minimum qualification prescribed for recruitment, if it is acquired from outside the state of domicile can be a ground for rejection of the applicants' candidature for selection as Constables (Executives) in Delhi Police.

3. The brief facts in the case are that the applicant in O.A. No. 80 of 1996 was selected in the outside special recruitment held in Bulandshahr (U.P.) during the month of August-September, 1995 and was selected to the said post but on scrutiny of the papers at a later stage, it was found that the applicant has passed his 10th class from Delhi instead of U.P. Similarly the applicant in O.A. No. 443 of 1996 was selected in the same recruitment held at Jaisalmer (Rajasthan) during the month of August-September, 1995 and was duly selected in the said recruitment but was found to have passed the matric from Board

of School Education, Haryana instead of Rajasthan. It was held by the respondents that this was violative of eligibility conditions issued to the recruitment team by the concerned Deputy Commissioner of Police. This resulted in the cancellation of the candidature of the applicants to the said post. Aggrieved by this cancellation, the applicants have approached this Tribunal seeking to quash the aforesaid cancellation orders and also seeking a direction to the respondents to appoint the applicants as Constables in the Delhi Police along with consequential benefits.

4. The applicants contest that the ground of cancellation for their candidature that they had acquired educational qualification from a State other than the State in which the recruitment had taken place is completely illegal and arbitrary and does not pass the test of reasonable nexus and is violative of Articles 14 and 16 of the Constitution. The applicants also contend that the eligibility condition for such recruitment team is inconsistent with Rule 9 of the Delhi Police (Appointment & Recruitment) Rules, 1980. The aforesaid rules, according to the applicants, do not prescribe that particular matriculation should be obtained from a particular State or a place and even the standing orders following

the aforesaid Recruitment Rules do not lay down any eligibility for matriculation qualification from a particular State.

5. The respondents, however, contend that the essential qualifications prescribed for outside special recruitment were that the candidate should belong to a State where the recruitment is being done and should have acquired the minimum educational qualification from that very state and should have registered his name in the employment exchange of the State. Since the applicants have not fulfilled the qualification of having matriculation done from a particular State where the recruitment is being done, their claim for candidature has been rightly rejected by the respondents and they have no right on selection as it is the Government policy to make recruitment to Delhi Police outside the Delhi limiting the candidature to such of those candidates who hail from their respective states where such outside special recruitment is taken and the respondents have by a way of policy can prescribe the essential criterion that the applicants should have acquired the qualification from the respective states and it is for the Government to prescribe what is best in public interest. The respondents, therefore, aver that the applicants' candidature was rightly cancelled

in view of the instructions given to the recruitment team by the Headquarters of the Delhi Police that the candidates should have acquired the educational qualification from the state where the recruitment is going on and there had been no violation of the departmental instructions in this regard.

6. We have heard the learned counsel for the parties and have carefully perused the records.

7. Rule 9 of the Delhi Police (Appointment & Recruitment) Rules, 1980 provides as follows:-

"(i) Delhi being a cosmopolitan city, it is imperative to attract candidates from all parts of the country.

(ii) The recruitment of constables shall be done twice a year in the months of January and July by the Board to be nominated by Commissioner of Police as per Rule 8.

(iii) The Commissioner of Police may also order special recruitment at any time if there are sufficient number of vacancies and the panels prepared earlier have exhausted.

(iv) A panel shall be drawn up of selected candidates on the basis of existing and anticipated vacancies. This panel shall be valid till the next recruitment is held.

(v) Physical, educational, age and other standards for recruitment to the rank of constables shall be as under:-

(a) Age ..18-21 Relaxable by 5 years for -
 i) Scheduled Castes/
 Scheduled Tribes candidates.
 ii) Sportsmen of distinction.
 iii) Ex-servicemen as per Rule 28 of these Rules.

(b) Height ..170 Cms. Relaxable by 5 centimetres for residents of Hill areas e.g. Gurkhas, Garwahlis

(c) Chest ..81 Cms. to ..85 Cms. Relaxable by 5 centimetres for residents of hill areas.

(d) Educational Qualification : Matric/ Higher Secondary 10th Relaxable upto 9th pass only for :-
 or 10 plus 2
 (i) Bandsman, buglers, mounted Constables, dirvers, despatch riders etc.
 (ii) for sons/daughters of deceased/retired police personnel including category 'D' employees of Delhi Police.

(e) Physical : Sound state No relaxation is standard of health, permissible.
 free from defect/
 deformity/disease,
 vision 6/12 without glasses both eyes,
 free from colour blindness.

(f) Reservation of vacancies

(i) For SCheuled Castes, Scheduled Tribes, Ex-servicement etc. as per orders issued by Govt from time to time.

'For sons/daughters of serving/retired/deceased police personnel, not more than 5% of vacancies in that recruitment year."

In clause (vi) of the aforesaid Rule, it is also provided that the Commissioner of Police shall frame standing orders prescribing application forms and detailed procedure to be followed for conducting physical efficiency, physical measurement, written tests and vivo-voce for regulating the above mentioned recruitment."

The respondents have also issued a Revised Standing Order No.212/1989, Annexure A-5 in O.A. No.80 of 1996 and Annexure A-9 in O.A. No. 443 of 1996. In the aforesaid Standing Order, essential qualifications as prescribed in accordance Rule 9 of the Delhi Police (Appointment & Recruitment) Rules, 1980 have been reiterated including the educational qualifications.

8. In the counter-reply, the respondents have admitted that the minimum educational qualification for the post of Constable as per Rule 9 of Delhi Police (Appointment & Recruitment) Rules, 1980 and Standing Order No.212 of 1989,

is matriculation /Higher Secondary (10th or 10 plus 2). They, however, submitted that the incharge of the recruitment team was directed by the Headquarters that the candidates should have acquired minimum educational qualification from the State where the recruitment was taking place. They also submitted that it is not a question whether the applicant is a domicile of Rajasthan or Haryana; the question is whether the applicant had passed the minimum educational qualification from the Rajasthan or Haryana or otherwise. In other words / whether the applicant had the requisite qualification from the particular State where the recruitment had taken place. From the aforesaid Recruitment Rules as well as Standing Order, it is nowhere stated that the minimum educational qualification prescribed for appointment for recruitment to the post of Constable should have been acquired from the State where the recruitment is to take place. While it is true that the Commissioner of Police has powers for framing Standing Orders including the detailed procedure to be followed, there is no specific authority conferred on the Commissioner of Police on the basis of Rule 9(vi) to prescribe certain minimum educational qualification which is not

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in accordance with the substantive Rule 9(d) of the Delhi Police Rules, 1980 (Supra). While it is possible under the Recruitment Rules to draw candidates from all parts of the country by way of recruitment as Constables in Delhi Police, there is no specific stipulation in the Recruitment Rules or the Standing Orders issued in this behalf confining the educational qualifications to be obtained from the states where the recruitment is to take place. This restriction has been imposed by way of instruction to the recruitment team. Such a restriction cannot be said to have any reasonable nexus with the object of recruitment of Constables with the prescribed minimum qualification. Further, in the context of mobility of people from place to place it is not unusual for an applicant who is a domicile in one state to have his education from some other state due to various circumstances. Even if the recruitment is to be broad based for attracting people from all parts of the country, any restriction in the matter of educational qualification which is not provided in the statutory rules themselves, cannot be sustained and is not legally defensible also. It is an admitted position that the applicants have been selected by a due process of selection and they have fulfilled all

qualifications as per Rule 9(vi) of the Delhi Police (Appointment & Recruitment) Rules, 1980.

The Commissioner can frame Standing Orders prescribing application form and detailed procedure to be followed for conducting physical efficiency, physical measurement, written tests and vivo-voce for regulating the above mentioned recruitment, but cannot under the same powers prescribe new restriction for educational qualification which is not contemplated in these statutory rules themselves. It is on this ground also that the impugned orders cannot be sustained. Where the recruitment is governed by certain statutory rules, the procedure adopted should be in full conformity with the aforesaid rules and the respondents cannot resort to any directions which are not in consonance with the aforesaid statutory rules.

9. In the conspectus of the above, the impugned orders cannot be held to be legally tenable and, therefore, they have to be set aside. We accordingly set aside the impugned orders and direct the respondents to restore the selection of the applicants and ^{proceed to} appoint them as Constables (Executives) in Delhi Police, within a period of

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2 months from the date of receipt of a copy of this order. In the circumstances, there shall be no order as to costs.

Let a copy of this order be placed in both the case files.


(K. MUTHUKUMAR)
MEMBER (A)


(A.V. HARIDASAN)
VICE CHAIRMAN

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