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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A.1594/89

Date of Decision: 06.09.1991

BIJENDER SINGH & ORS.

Applicant

SHRI MUKUL TALWAR

Counsel for the applicants

Vs.

DELHI ADMINISTRATION & ORS.

Respondents

MS. GEETA LUTHRA

Counsel for the respondents

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Ex.*
2. To be referred to the Reporter or not? *MD*

JUDGEMENT

(of the Bench delivered by
Hon'ble Shri B.N. Dhoundiyal, Member)

This O.A. has been filed by the following applicants who were appointed as Constables in Delhi Police on the dates shown against the names of each of them:

1. Bijender Singh	01.05.1982
2. Dilbagh Singh	01.05.1982
3. Diwan Singh	16.06.1982
4. Dilbagh Singh	07.09.1982
5. Ved Pal	16.06.1982
6. Pardeep Kumar	16.06.1982
7. Ranbir Singh	13.09.1982
8. Ramesh Chand	07.09.1982
9. Rameshwar Dayal	21.06.1982

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2. Applicants No.1 to 4 passed the Drill Instructors Course with 1st Class in May, 1985 and applicants No.5 to 9 passed the same test with 1st class in December, 1985. In accordance with Rule 12(b) of the Delhi Police (Promotion and Confirmation) Rules, 1980 as amended vide notification dated 01.10.1986, the applicants who had passed the Drill Instructors Course in 1st class should have been automatically brought in the list 'A' and they should have been sent to the next Lower School Course immediately. However, neither the applicants nor the other constables who have passed the Drill Instructors Course along with the applicants were brought on list 'A' and consequently they were not sent for the Lower School Course. The applicants have prayed for a direction to the respondents that they be brought on promotion list 'A' and sent for Lower School Course training immediately. After completion of the training, they should be promoted to the post of Head Constable and they should be placed above those who have passed the Drill Instructors Course after them.

2. The respondents have admitted the above facts but have stated that those who had passed their test prior to 01.10.1986 were subject to the old Rule 12(b) of the 1980 Rules, which provided that Constables who qualified Drill Instructors Course securing 1st class proficiency certificate, were exempted from the written test of the promotion list 'A' and for the purpose of evaluation, they were deemed to have secured 75% marks in written test. However, they had to undergo physical test. These rules were amended in 1986 and the amendment rules read as under:

"Constables with a minimum of 2 years of service shall be eligible for undergoing Drill Instructors Course.

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On satisfactory completion of the course with first class proficiency certificates, their names shall be brought on the promotion list 'A' and they will be sent on training in the next Lower School Course along with others irrespective of their seniority."

3. Thus according to the interpretation of rules by the respondents, for those who have passed the Drill Instructors Course prior to the amendment of 01.10.1986, the only facility given was exemption from written test and they had to have a service experience of 5 years for appearing in the test. It is only those who passed the Drill Instructors Course ~~after~~ ^{on} 01.10.1986 are entitled for inclusion of their names in promotion list 'A' without any tests. The respondents have admitted inclusion in the promotion list 'A' drawn on 13.11.87, the names of Shri Omno and Shri Ramkishen, who had passed the Drill Instructors Course after the applicants.

4. An interim order was passed by this Tribunal on 12.9.89 directing the respondents to allow the applicant to provisionally undergo the next Lower School Course subject to the outcome of the present application.

5. On coming into effect of Rule 12(b) of the 1980 Rules with effect from 01.10.1986, Constables with two years of service who have successfully completed Drill Instructors Course are to be brought on promotion list 'A' and sent for training in the next Lower School Training Course irrespective of their seniority. It was held in the similar case of Narender Singh Vs. Delhi Police & Ors. (OA.1103/89 and OA.1653/89) decided on 5.3.91) to which one of us (Hon'ble Shri P.K. Kartha)

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was a party, that the amended Rule 12(b) does not expressly state that the benefit conferred by it would apply only to the constables who satisfactorily complete the Drill Instructors Course with first class proficiency certificate after the coming into force of the amendment and not to those who completed the course earlier. Such a classification would not have been reasonable within the meaning of Article 14 of the Constitution. The applicants were therefore held to be entitled to the benefit of the amendment though only from 01.10.1986. we reiterate the same view

6. In the facts and circumstances of the case, the application is disposed of with the following directions:

(1) The names of the applicants who have successfully undergone the Drill Instructors Course, though it was prior to the coming into force of amendment Rule 12(b) of 1980 Rules, shall be brought on promotion list 'A' with effect from 1.10.86.

(2) As the applicants have successfully completed the Lower School Course, though it was pursuant to the interim order passed by the Tribunal, they shall be promoted to the post of Head Constables with effect from the date of promotion of their juniors.

(3) They would also be entitled to all consequential benefits.

(4) The respondents are directed to comply with the above directions within a period of three months from the date of receipt of this order.

7. There will be no order as to costs.

B.N. DHOUDIYAL
(B.N. DHOUDIYAL)
MEMBER(A)

6/9/81
(P.K. KARTHA)
VICE CHAIRMAN(J)