

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.1177/88

New Delhi this 22nd day of July, 1994.

Shri Bhim Sain, Constable No. 1110/C,
s/o Shri Dharam Singh, r/o
New Barrack No. 5, New Police Lines,
Kingsway Camp, Delhi-110009 Applicant.

By Shri Shanker Raju, Advocate.

Versus

1. The Delhi Administration
through Chief Secretary, Delhi Administration,
5, Alipur Road, Raj Niwas Marg,
Delhi
AND
134 others Respondents.

By Mrs. Avnish Ahlawat, Advocate.

CORAM:

Hon'ble Mr. J. P. Sharma, Member (J)

Hon'ble Mr. S. R. Adige, Member (A)

JUDGMENT

By Hon'ble Mr. S. R. Adige, Member (A)

In this application, Shri Bhim Sain, Constable, Delhi Police has prayed for a declaration that Rule 17-B (iv) of Delhi Police Appointment and Recruitment (Amended) Rules, 1987 be declared ultra vires of the Constitution; that the list dated 11.3.88 (Annexure-A1) filling up the posts of Head Constable (AWOs) from Constables of Delhi Police be quashed and a new list be prepared after allotting the rank of Head Constable (AWO) III grade to the applicant from the date of his selection to the post of Head Constable (AWO) III grade or at least from the date the applicant joined the Training Course for the post of Head Constable (AWO), with consequent grant of salary of Head Constable (AWO).

2. The applicant contends that he joined Delhi Police as a Constable(Executive) on 18.5.79. In 1987, a circular was issued for selection of constables in Delhi Police to the post of Assistant Wireless Operator(Grade III) , in pursuance of which the applicant applied for the said post and being successful in selection test and interview held on 26.11.87 was directed to join the AWO Training Course vide order dated 11.3.88(Annexure-A1). The applicant was relieved from his previous posting on 4.4.88 and joined the Training Course on 5.4.88. The applicant states that the department had also held a selection test for direct recruits for the post of Head Constables (AWO) grade III along with the test held for departmental candidates, and syllabus and course prescribed for the direct recruits as well as the departmental candidates were similar. The applicant avers that the direct recruits who were selected, were designated as Head Constable and they are drawing the salary of Head Constable also while the applicant, who had been selected for the post of Head Constable(AWO) being a departmental candidate has not yet been allowed the rank and salary of Head Constable inspite of having joined the Training Course on 5.4.88 which is arbitrary , discriminatory, malafide and violative of Articles 14 and 16 of the Constitution.

3. The respondents have challenged the O.A. in their reply and have pointed out that the applicant, who was enlisted as temporary Constable in the Delhi Police, was passed over ~~from~~^{for} quasi-permanency for six months w.e.f. 19.5.82 and was confirmed as Constable only on 5.6.84. His record of service was indifferent and he had also been facing departmental enquiry vide order dated 7.1.87 on various charges. They point out

that according to Rule 17-B(iv) of the Delhi Police Appointment and Recruitment (Amended) Rules, 1987, 75% of the total sanctioned posts are filled by direct recruits and 25% by promotion. The eligibility for promotion is matriculation/Secondary or equivalent with a clean record of service, after passing preliminary selection test and further after undergoing and passing nine months training for grade III course (i.e. six months training + three months practical test) and six months practical working experience on wireless sets and teleprinter machines. Thereafter the prospective promotees are required to give option whether they desire to stay in wireless department or executive side and only after the receipt of the option does the DPC meet to select the candidates who ^{are} then brought on select list 'B' technical and ^{are} promoted from the list as and when vacancy arises. The respondents point out that the petitioner applied for preliminary selection test to undergo Grade III Course of nine months, and after appearing in the said preliminary selection test on 26.11.87, he had to undergo nine months training, which he was still undergoing. They ^{state} that although he was undergoing training, he continued as a Constable on the strength of Central Distt. After successfully completing the training, he will have to undergo further six months practical training and can be considered in the communication Unit as Head Constable (AWO) only if after completion of the six months practical training he ^{was} selected by the DPC. For the present, he is only a Constable undergoing Grade III Training and cannot be compared with the direct recruits Head Constable (AWO)/TPO who had higher educational and technical qualification.

4. Mrs. Avnish Ahlawat, learned counsel for the respondents has invited our attention to the contents of Rule 17-B(iv) Delhi Police Appointment and Recruitment (Amended) Rules, 1987 which were notified on 31.7.86 and which are impugned. It is clear from the perusal of the same that the direct recruits are required to have higher educational and technical qualification, for appointment as Head Constables (AWO) in the Delhi Police, as compared to the promotees. Direct recruits are required to have matriculation or equivalent qualification with two years' experience in wireless operation, preference being given to those having knowledge of English Typing; or higher Secondary or 10+2 pass with Physics and Mathematics as subjects upto X Class, and an English Typing speed of 30 words per minute, and have to undergo three months' wireless training course. The promotees on the other hand, are only required to be confirmed (Constables) who then have to undergo Grade III Course and the six months practical training and then come on to promotion list 'B' (technical) from where they are selected depending upon the vacancies.

5. Manifestly, the educational and technical qualification prescribed for direct recruits is higher than that of laid down for promotees and the applicant, who is a promotee candidate, and has not even completed training, cannot claim parity in pay scales with the direct recruits.

6. We see no legal infirmity in the contents of Rule 17-B(iv) of the Delhi Police Appointment and

Recruitment (Amended) Rules, 1987 which, in our view, is fully in consonance with the provisions of the Constitution. The applicant's prayer for parity with the direct recruits and for quashing the list dated 11.3.88 (Annexure-A1) is wholly without merit and this application is accordingly dismissed. No costs.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

J.P. Sharma
(J.P. SHARMA)
MEMBER (J)