

- 10 -

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.2354/91

21
Date of decision: 20.5.93

Shri Jagbir

...

Applicant

versus

Commissioner of Police,
Delhi Police &anr.

...

Respondents

CORAM: THE HON'BLE SH.J.P.SHARMA, MEMBER(J)
THE HON'BLE SH.S.R.ADIGE, MEMBER(A)

For the Applicant

..

Sh.B.S.Charya,
Counsel.

For the Respondents

..

Sh.O.N.Trishal,
Counsel.

JUDGEMENT

(BY HON'BLE MR.J.P.SHARMA, MEMBER(A))

The applicant is aggrieved by his non-appointment in Delhi Police though he has applied for recruitment to the post of Head Constable in December, 1989. At that time, the age of the applicant was 23 years and 8 months. However, the upper age-limit for appointment to the post of Constable is 21 years for general candidates. There is a provision that in the case of the wards of the employees of the Delhi Police there would be relaxation of 4 years of age i.e. the upper age-limit will be 25 years. The applicant was duly called for physical endurance test on 19.1.1990 and he was declared fit. The applicant was also allowed to appear in the written test and he also qualified in the same. Thereafter, the applicant was again called for physical remeasurement on 5.11.90 at Sports ground, New Police Lines, Kingsway Camp, Delhi. The name of the applicant was also mentioned in the merit list at Sl.No.1362. The applicant also appeared for medical examination

b

in pursuance of the call letter dated 8.11.90. Since the applicant has not been given an appointment he filed the present OA on 7.10.91 and has prayed for the following reliefs:-

- (a) to direct the respondents to appoint the applicant against the post of Constable from the date when other candidates lower in merit as compared to the applicant have been appointed and to give him all attendant benefits in terms of pay, allowances and seniority etc.
- (b) to hold that the relaxation of age earlier granted to the applicant cannot be withdrawn on the ground that the father of the applicant was under suspension or that he was facing a disciplinary proceeding or any such other grounds.
- (c) to quash the impugned action of the respondents in not giving appointment to the applicant after he has been found fit in every respect.

2. The respondents in their reply have contested the application and they have taken the plea that the applicant was not eligible to be appointed being over-age by 2 years, 6 months and 7 days on the relevant date. The age bar cannot be relaxed under the relevant standing orders and as such the applicant cannot claim appointment to the post of Constable.

3. We have heard the learned counsel for the parties at length and have gone through the records. The learned counsel for the respondents referred to the provisions in S.O. No.212/89 whereby the applicant could not have been given relaxation of age though he was provisionally allowed

6


12-

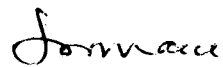
to appear in all the recruitment tests being the son of the Delhi Police personnel. It is the further argument of the learned counsel for the respondents that the father of the applicant Sh.Bal Kishan was awarded the punishment of censure and further punishment of forfeiture of 5 years of ^{approved} service was with reduction in pay and in view of the above S.O.No.212/89 the relaxation in age could not be given to his son Sh.Jagbir on the ground that the service record of the father was not found clean and good. The learned counsel for the applicant has referred to the decision of the Principal Bench in a bunch of cases in OA No.2140/91 (Lalit Kumar Vs.Commissioner of Police and similar other OAs) decided on 10.9.92 wherein it was held that the correct interpretation of the revised Standing Order No.212/89 is that for the purpose of grant of relaxation the imposition of punishment of dismissal, removal or compulsory retirement by way penalty alone will make the record of the police personnel short of being clean and good. It was, therefore, directed in all those applications that the relaxation on the basis of the said interpretation should be considered strictly in accordance with the provision of Rule 9(vii) of the ~~Delhi Police~~ / (Appointment & Recruitment) Rules. The case of the applicant is also covered by that interpretation because the respondents in their reply have stated that only punishment of censure and forfeiture of 5 years of approved service was imposed on the father of the applicant Sh.Bal Kishan.

↓

4. The learned counsel for the respondents could not show how there can be discrimination in the case of the applicant when the wards of other similarly placed employees have already been allowed relaxation of age of 4 years. It is not disputed that on the date when the applicant was found fit for appointment, he was only 23 years & 6 months of age much below 25 years of age. So he was entitled to get the benefit of being a ward of Delhi Police personnel.

5. The present OAS is, therefore, partly allowed with the direction that the respondents shall consider the engagement of the applicant on the basis of the merit list drawn for recruitment of the Constables in December, 1989. The respondents shall comply with the above directions within a period of four months from the date of receipt of this order. Parties are left to bear their own costs.


(S.R. ADIGE)
MEMBER(A)


(J.P. SHARMA) 21.5.93
MEMBER(J)