

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2460/2004

New Delhi, this the 6th day of July, 2005

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member (A)

Yogender Singh
S/o Shri Daya Ram
R/o Badhwana, P.O. Badhwana
Tehsil Charkhi Dadri
District Bhiwani
Haryana.

...Applicant

(By Advocate Shri Gyanender Singh
proxy for Shri Kapil Sharma)

V E R S U S

Union of India through

1. Commissioner of Police
Police Headquarters
I.P. Estate, New Delhi.
2. Deputy Commissioner of Police (Estt.)
II Bn., Kingsway Camp, New Delhi.

...Respondents

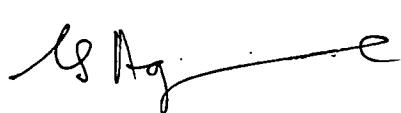
(By Advocate Shri Ram Kawar)

O R D E R (ORAL)

Mr. Justice V.S. Aggarwal

The applicant Shri Yogender Singh, by virtue of the present application, seeks a direction to appoint him to the post of Constable (Executive) in Delhi Police on basis of the selection held in accordance with Recruitment Rules.

2. Some of the relevant facts which can conveniently be delineated to precipitate the question in controversy are that one thousand vacancies of Constable (Executive) were to be filled up. 270 posts were reserved for Other Backward Classes Category (OBC). The applicant belongs to Ahir caste and is a resident of Haryana. According to him, the said caste had been declared an OBC in Haryana. The applicant took the test but has been denied appointment solely on the ground that he is not an OBC in the Central list. On basis of these facts, contending that declining the appointment to the applicant is illegal, the present application has been filed.



3. The application has been opposed contending that the records of all candidates had been scrutinized. It was found that the applicant did not belong to the OBC category in the Central list. He is a permanent resident of Haryana. Ahir caste of Haryana was added in the OBC category only subsequently. It has also been pointed that the petition has been filed after 8 years of the announcements of the results and is barred by time.

4. We have heard the parties' counsel and have seen the relevant records.

5. Learned counsel for the applicant relies upon the decisions of this Tribunal in the case of **Parmender Kumar & Ors. v. Commissioner of Police & Ors.** (OA 2410/96 with connected OAs) decided on 24.10.97 and OA 136/98 entitled **Subhash Yadav & Ors v. UOI & Ors.** decided on 3.12.98.

6. It is not in dispute that Writ Petitions in the said decisions are pending in the Delhi High Court.

7. However, the main objection raised on behalf of the respondents is that present petition is barred by time. The applicant seeks condonation of delay contending that since other OAs had been allowed, benefit should be accorded to him and in any case, if the applicant has merits in his contentions, the petition should not be dismissed on the ground of delay. On this core, it is prayed that delay may be condoned.

8. We have carefully considered the submissions made by the parties. We do not dispute that ordinarily the law should maintain the equity but if a person delays and does not act for years together and meanwhile the recruitment is finalized and others joined, in that event, the person concerned who is not alive to the situation cannot seek condonation of delay. In this case, the delay is of more than eight years from the date the result was declared. The applicant for years together did not take any action, the recruitment process has since been completed. In these circumstances, if the applicant was to be inducted in service per chance, the person who is working in that post for eight years has to vacate the seat for applicant's benefit. The delay in such circumstances would defeat the equity.

9. Not only that there is an inordinate delay in filing the application, At the risk of repetition, it is mentioned that the result was declared eight years before. The applicant has taken no action in this regard. The reasons given that other OAs have been allowed and,

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therefore, applicant should be treated similarly, can also in the peculiar facts be not taken as a good ground for the reasons that those OAs had been allowed in the year 1997. The applicant still did not wake up to the situation. We are, therefore, of the considered opinion that there is no ground to condone the delay. Therefore, petition seeking condonation of delay fails. Resultantly, OA also is dismissed.

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(S.A. Singh)

Member (A)


(V.S. Aggarwal)

Chairman

/vikas/