

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

OA NO. 2564/2004 and  
OA NO. 2244/2004

This the 14<sup>th</sup> day of October, 2005

HON'BLE MR. JUSTICE M.A.KHAN, VICE CHAIRMAN (J)  
HON'BLE MR. D.R.TIWARI, MEMBER (A)

OA No.2564/2004

Praveen Tomar  
Roll No.174,  
S/o Sh. Ishwar Dayal Tomar,  
R/o Ganga Vihar colony,  
Jilalpur Road Muradnagar,  
Teh Modinagar  
Ghaziabad.

OA No. 2244/2004

1. Amanpreet Singh,  
S/o Sh. Sukhdev Singh,  
R/o D-10, Type-IInd N.P.L.,  
Kingsway Camp,  
Delhi.
2. Palvinder Singh,  
Roll No.165,  
S/o Sh. Harjeet Singh,  
R/o 89-H, New Police Line,  
Kingsway Camp,  
Delhi.
3. Devaki Nandan  
Roll No.146,  
S/o Late Sh. Dharamvir Dhiman  
R/o 15/25/6 Asha Nivas,  
Mangol Pur Kalan,  
Delhi.
4. Dinesh Kumar  
Roll No.37,  
S/o Sh. Gian Chand,  
R/o 23-D New Police Line,  
Kingsway Camp,  
Delhi.
5. Jitender Saini,  
Roll No.212,  
S/o Sh. Ram Saini,  
R/o 2515/193, Near Mother Dairy,  
Tri Nagar,  
Delhi.
6. Ramesh Kumar  
Roll No.116,  
S/o Sh. Babu Lal,

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R/o 72-D, New Police Line,  
Kingsway Camp,  
Delhi.

7. Shyam Kumar,  
Roll No.292,  
S/o Sh. Sunder Lal,  
R/o A-1354, Jahangir Puri,  
Delhi-110033.
8. Sumit Kumar,  
Roll No.147,  
S/o Sh. Ramesh Chand,  
R/o D-7 Type-II New Police Line,  
Kingsway Camp,  
ADelhi.
9. Umesh Meena,  
S/o Sh. Ramesh Chand Meena,  
R/o 37-I, Police Colony,  
Model Town-II,  
Delhi.
10. Upendra Kuma Meena,  
(Roll No.138)  
S/o Sh. Bani Singh Meena,  
R/o Meharmati Meena,  
Post Dabathwa, Distt. Meerut,  
U.P.
11. Yadwinder Singh,  
Roll No.177,  
S/o Sh. Baldev Singh,  
R/o D-7 Type-II, New Police Line,  
Kingsway Camp,  
Delhi.

(By Advocate: Sh. Arun Bhardwaj)

Versus

1. Commissioner of Police,  
Police Headquarters,  
ITO, New Delhi.
2. Dy. Commissioner of Police,  
4<sup>th</sup> Bn. DAP, Room No.13,  
Administrative Block, New Police Line,  
Kingsway Camp, Delhi.
3. Dy. Commissioner of Police,  
Hqrs. (Estt.) Delhi  
MSO Building, PHQ,  
ITO, IP Estate, New Delhi.

(By Advocate: Sh. Ajesh Luthra)

1/2-2000-1

ORDER

By Hon'ble Mr. Justice M.A.Khan, Vice Chairman (J)

OA-2244/04 and 2564/2004 may be conveniently decided by this common order.

2. The relief claimed in these OAs is identical.
3. OA-2244/2005 filed for a direction to the respondents to appoint the applicants 11 in number as Constable (Brass/Pipe Band) in Delhi Police on the basis of the final select list published. The cancellation of the recruitment in which the select list was prepared has also been challenged.
4. In OA-2564/2004 the applicant is seeking a direction to the respondents to appoint him as Constable (Pipe Band) in Delhi Police on the basis of the final select list and seeks to quash the cancellation of the recruitment and also the fresh recruitment process by publishing it in the newspaper.
5. The background of the case is as follows. In November 2003 the respondent Commissioner of Police issued advertisement for filling up of the vacancies in the post of Constable (Brass Band/Pipe Band) in Delhi Police. Out of the total 16 vacancies, 9 vacancies were for Constable (Brass Band) and 7 vacancies were for Constables (Pipe Band). Applicants fulfilled the eligibility conditions prescribed in the advertisement. They applied and after getting through the selection process which involved qualifying in physical measurement test, stamina test, trade test and interview they were finally selected and the select list was displayed on the notice board. Thereafter they also underwent medical fitness test etc. Some of them were even asked to fill up agreement form which they did. On 5.8.2004 they were asked to report with their admit card for scrutiny of their documents. They were not subjected to any retest on that date. The applicants were waiting for issue of appointment letters to them when abruptly they came across a notice issued by the respondent canceling the recruitment to the post of Constable (Brass Band) and Constable (Pipe Band) pursuant to the advertisement published in the newspaper on 6.12.2003 and in the Employment News on 6-12.12.2003. Applicants are aggrieved and have filed these two OAs.
6. The applicants in OA-2244/2004 have challenged the order of cancellation of the recruitment process and their non-appointment on the ground that it was in violation of their fundamental rights guaranteed under Article 14, 16 and 21 of the Constitution of

India; the cancellation was otherwise also on illegal, immaterial and bogus grounds since there was no provision for any retest and the applicants were also never put to retest; the standing order 258 of Delhi Police which governed the selection to the post of Constable (Brass Band) and Constable (Pipe Band) had been followed in letter and spirit by the department as such there is no ground for cancellation of the entire selection process; a failed candidate has no right to challenge it and there was also no irregularity in the selection process; the applicants have legitimate right to be appointed as per the select panel and the respondent cannot arbitrarily and whimsically play with the career of the applicants; the officer who is competent to judge playing of the musical instrument in Delhi Police is Inspector (Band) who was a part of the team which had conducted the trade test in the presence of the Dy. Commissioner of Police and; there is no irregularity in the selection process and no mistake or default is attributable to them.

7. In OA-2564/2004 also the orders of cancellation of the recruitment was assailed on identical grounds.

8. Both these OAs were contested by the respondents. Long and short case of the respondent is that after the total formalities of the recruitment process were completed the provisional list of selected candidates was displayed on the notice board. A joint complaint was received in the Police Headquarters on 22.6.2004 that some of the selected candidates do not know how to play band instrument. The complaint was examined and in order to verify the veracity of allegations the Commissioner decided that a trade test be conducted by a Special Commissioner of Police & A.P. and till then no further formalities would be completed. Subsequently another complaint was also received in the Police Headquarters as such of the provisionally selected candidates were called on 8.7.2004 for retest which was postponed to 5.8.2004. All the candidates were informed by the letter dated 21.7.2004. Re-trade test of all the selected candidates was held on 5.8.2004 at New Delhi Police Lines. After the report of the re-trade test was received at the Police Headquarters in which it was stated that except two candidates Roll No.147 & 294, i.e. applicants No.8 & 9 in the OA all other applicants were found wanting and it was suggested that these posts may be advertised again and entire selection process will be redone. On this ground the recruitment for the post of Constable (Pipe Band) and Constable (Brass Band) in Delhi Police has been published in the leading newspaper on

6.12.2003 which was cancelled on administrative ground by the Commissioner of Police. The cancellation was also published in the newspapers on 17.8.2004 etc. It has been displayed on the notice board of the Police Headquarters as well.

9. In OA No.2564/2004 also identical counter reply was filed repudiating the claim of the applicant made in the OA.

10. In the rejoinder filed to these two respective counter reply the applicant have reiterated their own case and have controverted the allegations of the respondents.

11. We have heard the learned counsel for the parties at great length and have also carefully considered the relevant document and the case law cited.

12. There is no controversy between the parties as to the applicants in these two OAs having been declared successful in the recruitment for the post of Constable (Brass Band) and Constable Pipe Band), as the case may be, after they qualified physical measurement test, stamina test, trade test and the interview. It is also admitted by the respondents that trade test for judging the skill of the candidates in the playing of the Band instrument was conducted by a duly constituted team of the officers in which Inspector (Band) was a member. The provisional list of the successful candidates were displayed at the notice board since certain other formalities were also to be completed. According to the applicant they also passed the medical test, some of them also executed the bond/agreements as required by the respondents and their testimonials were also verified.

13. According to the respondent the trade test was cancelled after finding some truth in the complaint received that some of the candidates, who were on the provisional select list did not know how to play band instrument, by the Additional Commissioner and Joint Commissioner (TN). Out of 16 candidates it is submitted by them only two candidates were found knowing the playing of the band instrument while the rest were found wanting in this skill. According to the respondent some other complaint was also received against the selection process. As a result the Commissioner of Police considered it appropriate to cancel the whole process and to re-advertise the post for fresh selection. At the Bar it is submitted that all the applicants have submitted their applications and they are candidates in the new recruitment.

14. The learned counsel for applicant strenuously argued that no irregularity in the recruitment process has been pointed out and S.O. 258 which prescribed the procedure of

*Amrit Lal*

trade test was fully and completely followed before the applicants were declared qualified at that test. It is further submitted that this standing order did not provide for taking a re-test of the selected candidate therefore the Joint Commissioner of Police who allegedly took the re-trade test had no legal power to conduct it. Even otherwise the only officer who is well-versed with the playing of the Band instrument is the Inspector (Band) and the Joint Commissioner who purportedly conducted the re-test was not competent to do so. In fact the counsel for applicant argued that no re-test was conducted as the applicants were never called for re-test and they that vide letter dated 21.7.2004 the applicants were asked to appear with their admission card for the purpose of verification of their testimonials and documents as there is no mention of holding of the trade test in that letter.

15. Conversely, counsel for respondents has vehemently argued that the applicants had no indefeasible legal right to the appointment even if they were selected. It is argued that on receipt of the complaint that there was some irregularity in the selection as a number of the candidates in the provisional list did not know how to play the band instrument the Joint Commissioner was asked by the Commissioner of Police to conduct a re-test and in re-test except two candidates all others were found wanting in this skill. Some other complaints were also received as a result the Commissioner of Police decided on administrative ground to cancel the entire selection process of recruitment to the post of Constable (Brass Band) and Constable (Pipe Band) the post has since been readvertised and the selection process is in progress. The learned counsel has placed reliance on the judgment of the Hon'ble Supreme Court U.P.Bhumi Sudhar Nigam Ltd. Vs. Shiv Narain Gupta 1995 (1) AI SLJ 9, Dr. H.Mukherjee vs. Union of India and another 1994 (Suppl) (1) SCC 250, Union of India and others vs. Tarun K.singh and others (2003) 11 SCC 768, B.Ramanjini and others vs. State of A.P. and others (2002) 5 SCC 533, Union of India and others vs. K.V.Vijesh 1996 (3) SCC 139, Krishan Yadav vs. State of Haryana AIR 1994 SC 2166 and Shankarasan Dash vs. Union of India 1991 (3) SCC 47 in support of his arguments.

16. Learned counsel for applicant, on the other hand, has argued that the selected candidates may not have a legal right to the appointment to the post on which they are selected provided the post is not available or is not sought to be filled up by another

*Amrit Singh*

selection. But in the instant case after illegally canceling the select list the respondents are resisting to fresh recruitment to these very posts, so the judgment cited on behalf of the respondents will not advance the case of the respondents.

17. There are catena of judgments of the Hon'ble Supreme Court which have laid down that a selected candidate has no indefeasible legal right to the appointment. In Union of India and others vs. N.R.Banerjee and others 1997 (1) SLR 751 relying upon the judgment in Shankarsan Dash vs. Union of India 1999 (2) SCR 567, Babita Prasad and others vs. State of Bihar and others (1993) Supp. 3 SCC 2681, Union Territory of Chandigarh vs. Dilbagh singh and others (1993) 1 SCC 154, State of Bihar and others vs. Secretariat Assistant Successful Examinees Union 1986 and others (1994) 1 SCC 126 and Nagar Mahapalika, Kanpur vs. Vinod Kumar Srivastava AIR 1987 SC 847, the Hon'ble Supreme Court observed that it was a settled law that inclusion of one's name in a list did not confer any right on him/her to the appointment. It was not incumbent that all posts may be filled up but the authority must act reasonably, fairly and in public interest and the omission thereof should not be arbitrary. In para 12 of the judgment the Hon'ble Court precisely observed as under:-

“12. Considered from that perspective, the question arises: whether the view taken by the Tribunal is justified in law? It is true that filling up of the posts are for clear or anticipated vacancies arising in the year. It is settled law that mere inclusion of one's name in the list does not confer any right in him/her to appointment. It is not incumbent that all posts may be filled up. But the authority must act reasonably, fairly and in public interest and omission thereof should not be arbitrary. In Shankarsan Dash V. Union of India [(1999 2 SCR 567] : [1991 (2) SLR 779 (SC)], the Constitution Bench had held that inclusion of the name of a candidate in a merit list does not confer any right to be selected unless the relevant recruitment rules so indicate. The State is under no legal duty to fill up all or any of the vancaies even though the State acts in arbitrary manner. In Babita Prasad and Ors. V. State of Bihar and Ors. [(1993) Supp. 3 SCC 2681] it was held that mere inclusion of one's name in the panel does not confer on him/her any indefeasible right to appointment. It was further held that the purpose of making panel was to finalize the list of eligible candidates for appointment. The preparation of the panel should be to the extent of the notified or anticipated vacancies. Unduly wrong panel should not be operated. In Union Territory of Chandigarh v. Dilbagh Singh and Ors., [(1993) 1 SCC 154]: [1993 (1) SLR 451 (SC) it was held that the mere fact that a candidate's name finds a place in the select list as a selected candidate for appointment to a post, does not confer on him/her an indefeasible right to be appointed in such post in the absence of any specific rule entitling him to such appointment. In State of Bihar and Ors. Vs. Secretariat Assistant Successful Examinees Union 1986 and Ors., [(1994) 1 SCC 126] : [1993 (5) SLR 598 (SC)] it was held that a person who is selected and empanelled does not on account of empanelment alone acquire any indefeasible right to appointment. Empanelment is, at the best, a condition of eligibility for

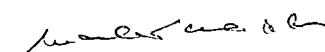


the purposes of appointment and that by itself does not amount to selection or creation of a vested right to appointment unless relevant rules state to the contrary....”

17. In Shankarasan Dash (supra) it was held that even if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates do not acquire any indefeasible right to be appointed against the existing vacancies. In para 8 the Hon’ble Supreme Court held as under:-

“8. In State of Haryana Vs. Subhash Chander Marwaha 15 vacancies of Subordinate Judges were advertised, and out of the selection list only 7, who had secured more than 55% marks, were appointed, although under the relevant rules the eligibility condition required only 45% marks. Since the High Court had recommended earlier, to the Punjab Government that only the candidates securing 55% marks or more should be appointed as Subordinate Judges, the other candidates included in the select list were not appointed. They filed a Writ Petition before the High Court claiming a right of being appointed on the ground that vacancies existed and they were qualified and were found suitable. The writ application was allowed. While reversing the decision of the High Court, it was observed by this Court that it was open to the Government to decide how many appointments should be made and although persuaded itself to spell out a right in the candidates because in fact there were 15 vacancies”. It was expressly ruled that the existence of vacancies does not give a legal right to a selected candidate. Similarly, the claim of some of the candidates selected for appointment, who were petitioners in Jatendera Kumar Vs. State of Punjab, was turned down holding that it was open to the government to decide how many appointment would be made. The plea of arbitrariness was rejected in view of the facts of the case and it was held that the candidates did not acquire any right merely by applying for selection or even after selection. It was true that that the claim of the petitioner in the case of Neelima Shangla Vs. State of Haryana, was allowed by this Court but, not on the ground that she had acquired any right by her selection and existence of vacancies. The fact was that the matter had been referred to the Public Service Commission which sent to the government only the names of 17 candidates belonging to the general category on the assumption that only 17 posts were to be filled up. The government accordingly made only 17 appointments and stated before the court that they were unable to select and appoint more candidates as the Commission had not recommended any other candidate. In this background it was observed that it is, of course, open to the government not to fill up all the vacancies for a valid reason, but the selection cannot be arbitrarily restricted to a few candidates notwithstanding the number of vacancies and the availability of qualified candidates and, there must be a conscious application of mind by the by the government and the High Court before the number of persons selected for appointment is restricted. The fact that it was not for the Public Service Commission to take a decision in this regard was emphasised in this judgment. None of the decisions, therefore, supports the appellant.”

18. In Union of India vs. K.V.Vijesh (supra) the question for determination in the appeal before the Hon’ble Supreme Court was as to whether the candidate whose name appeared in the select list on the basis of the competitive examination acquires a right of appointment in Government service in an existing or a future vacancy. Relying upon the decision of a Constitution Bench of the Court in Shankarasan Dash vs. Union of India the



Hon'ble Court did not uphold the order of this Tribunal whereby absorption of a candidate was directed solely on the ground that his name was included on the select list. The Hon'ble Court also observed that reliance on the judgment of this Court in Prem Prakash vs. Union of India 1984 Supp SCC 687 was misplaced but in that case the notification regarding recruitment specifically providing that once a person was declared successful according to the merit list of selected candidates the appointing authority had the responsibility to appoint him even if the number of vacancies had undergone a change after his name had been included in the list of selected candidates. The judgment has further provided that where selected candidates were awaiting appointment, recruitment should either be postponed till all the selected candidates were accommodated or alternatively, intake for the next recruitment reduced by the number of candidates awaiting appointment. The Hon'ble Court observed that relying solely on the above notification this Court made the earlier quoted observations in Prem Prakash case and in the absence of such rules governing the appointment of the respondent, the Tribunal was therefore not justified in passing the impugned order. In case of Shankarasan Dash (supra) the Constitution Bench held that successful candidates did not acquire indefeasible right to be appointed even if the number of vacancies notified were available. But it was also observed that the State should not act in arbitrary manner and the decision not to fill up the vacancies has to be taken bona fide for appropriate reasons.

19. In Union Territory of Chandigarh vs. Dilbagh Singh and others the Hon'ble Apex court held that a candidate who finds a place in select list as a candidate selected for appointment to a civil post, does not acquire an indefeasible right to be appointed in such post in absence of any specific rule entitling him for such appointment and he could be aggrieved by his non-appointment only when the administration does so either arbitrarily or for no bona fide reasons. In para 11 of the judgment the Hon'ble Court has made the following observation:-

“11. If we have regard to the above enunciation that a candidate who finds a place in the select list as a candidate selected for appointment to a civil post, does not acquire an indefeasible right to be appointed in such post in the absence of any specific Rule entitling him for such appointment and he could be aggrieved by his non-appointment only when the Administration does not either arbitrarily or for no bona fide reasons, it follows as a necessary concomitant that such candidate even if has a

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legitimate expectation of being appointed in such posts due to his name finding a place in the select list of candidates, cannot claim to have a right to be heard before such select list is cancelled for bona fide and valid reasons and not arbitrarily. In the instant case, when the Chandigarh Administration which received the complaints about the unfair and injudicious manner in which select list of candidates for appointment as conductors in CTU was prepared by the Selection Board constituted for the purpose, found those complaints to be well founded on an enquiry got made in that regard, we are unable to find that the Chandigarh Administration had acted either arbitrarily or without bona fide and valid reasons in cancelling such dubious select list. Hence, the contentions of the learned counsel for the respondents as to the sustainability of the judgment of CAT under appeal on the ground of non-affording of an opportunity of hearing to the respondents (candidates in the select list) is a misconceived one and is consequently rejected.”

20. In U.P. Bhumi Sudhar Nigam Ltd. Vs. Shiv Narain Gupta (supra) a select panel of two was made and the candidate at No.1 did not join and the candidate at No.2 in the select panel was not given appointment order. The High Court allowed his claim. It was found that the project for which the selection was made was not likely to start, so the Hon’ble Supreme Court observed that non-filling up the post cannot be questioned.

21. In B.Ramanjini and others vs. State of A.P. and others (supra) the Hon’ble Supreme Court observed that High Court in exercise of power of judicial review should not interfere in the action taken by the Government particularly when there was some material for the Government to act one in one way or in other. It was a case of mass copying and leakage of question papers which constituted enough reason for canceling of examination. In Dr. H.Mukherjee (supra) the Government has not accepted the advice and recommendation of the UPSC in the matter of selection of the candidate. It was observed that in Jatinder Kumar vs. State of Punjab (1985) 1 SCC 122, it has been stated that the selection made by the Commission was also recommendatory in nature and it was open to the Government to either accept the recommendation of the UPSC or departing therefrom. The Hon’ble Court disapproved the observation of the Tribunal and held that the observation of the Tribunal without good reasons did not disturb the order of merit of the selected candidates according to his sweet will but at the same time it would not mean that the Government could not depart from the recommendation of the Commissioner but if it departs then it must comply with the requirement of Article 323 of the Constitution.

22. In Union of India and others vs. Tarun K.Singh (supra) the Director General of Railway Protection Force cancelled the entire selection process held for the post of Constable on the ground of several complaints received by the Railway Board alleging

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malpractice adopted in the process of selection. The High Court allowed the writ petition setting aside the cancellation order and directed the appropriate authority to publish the result and complete the selection process. The Hon'ble Supreme Court in para 4 of the judgment held as under:-

“The question for consideration is whether the learned Single Judge of the Allahabad High Court was justified in interfering with an order of cancellation passed by the competent authority and directing that the process of selection should be completed. Needless to mention that subsequent to the order of cancellation, in view of the allegation of malpractice, the departmental authorities had held an enquiry into the matter and the result of that enquiry revealed gross irregularities and illegalities as referred to in the process of selection to a public office, which stands vitiated by adoption of large-scale malpractice, cannot be permitted to be sustained by a court of law. That apart, an individual applicant for any particular post does not get a right to be enforced by a mandamus unless and until he is selected in the process of selection and gets the letter of appointment. In the case in hand, much before the so-called list of selection was approved by the Railway Board, the order of cancellation had emanated on the basis of complaints received from so many quarters. In view of the subsequent findings of the Enquiry Committee which has gone into the matter, we have no hesitation in coming to the conclusion that the learned Single Judge of the Allahabad High Court was wholly in error in issuing the direction in question and therefore the Division Bench of the Allahabad High Court was fully justified in interfering with the said order of learned Single Judge of the Allahabad High Court. The Division Bench of the Calcutta High Court committed error in following the judgment of learned Single Judge of the Allahabad High Court. The judgment of the Division Bench of the Calcutta High court is set aside and the judgment of the Division Bench of the Allahabad High Court is upheld. In the circumstances, we allow the Union's appeals and dismiss the appeals filed on behalf of the individual candidates. The appeals are disposed of accordingly. Any other question of law remains open.”

23. The facts of the present case now be examine in the backdrop of the principles of law laid down in the cited judgment. The reason given in the counter by the respondent for canceling the recruitment and the selection process is that a complaint was received that some candidates who did not know how to play band instrument have also found their place in the provisional select penal and to verify this complaint the Joint Commissioner carried out a retest of all the selected candidates who were on the provisional list and according to his report except two the candidates were found wanting in the skill of playing the band instrument. Some other complaints were also received against the mal-practice in the selection process. According to the counsel for respondents even if the mal practice were not established but the competent authority the Commissioner of Police was satisfied that the selection was not fair and proper as it

*MacLean C. B.*

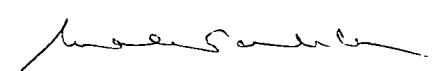
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included those who did not possess the skill of playing the band instrument his decision of canceling the entire selection process and holding the selection afresh cannot be called in question.

24. Indeed S.O. 258 did not provide a retest, once it has been conducted by a Selection committee and the candidates have been selected. But none of the rule disentitled the Commissioner of Police to go into the complaint received against the selection process and decide whether the selection process was fair, just, in accordance with the rules and departmental instructions or not. Therefore holding of retest by the senior officers of the police under the orders of the Commissioner cannot be questioned on the ground that it is not provided in S.O. 258.

25. We have perused the departmental file which contains the complaints and the reports of the Commissioner, the Joint Commissioner and the notes including the report of the Joint Commissioner who conducted the retest and had suggested for holding the selection afresh. A great deal emphasis has been laid by the counsel for applicant that there is no documentary evidence to show that the applicants were called for retest and retest was conducted. Indeed in the letter referred to by the respondents, the candidate was called with their identity card but the letter also did not mention they were called for verification of their testimonials and documents. The proceedings on the departmental record showed that the retest was conducted by the Joint Commissioner and there is no reason why we should disbelieve the report of a Joint Commissioner of Police in this regard. Skill of a Joint Commissioner in conducting the retest has also been questioned but to our view he is a senior officer and we cannot discard the test conducted by him simply because he was not an expert in playing the band instrument himself.

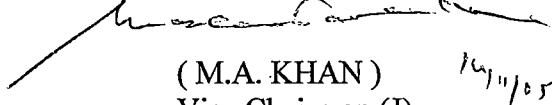
26. The perusal of the departmental record has corroborated the allegations made in the counter that there were complaints against the fairness in the selection process. Some irregularities were pointed out which as per the report of the Joint Commissioner were substantially proved since out of 16 candidates only two were found to be having a skill of playing band instrument. The others were found wanting in this skill. As a result, we are of the considered view that the Commissioner of Police had sufficient material before him to decide about the recruitment. The decision taken by him for



canceling the selection process cannot be said to be arbitrary on the other hand it seems to be for bonafide reason.

27. The result of the above discussion is that we do not find merit in any of these two OAs. They are dismissed but without costs.

  
(D.R.TIWARI)  
Member (A)

  
(M.A. KHAN)  
Vice Chairman (J)

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