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Central Administrative Tribunal, Principal Bench

Original Application No.312 of 2004

New Delhi, this the 12th day of August, 2004

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

Shri Yogesh Kumar
S/o Shri Lakhpat Singh,
R/o Village Perkhotampur,
P.O. Jatusana, Teh. Rewari,
Distt. Rawari (Haryana)-123401

...Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. Commissioner of Police
P.H.Q., M.S.O. Building,
I.P. Estate, New Delhi

2. Dy. Commissioner of Police,
IInd Bn. DAP Delhi

....Respondents

(By Advocate: Shri George Paracken)

O R D E R (ORAL)

Justice V.S. Aggarwal, Chairman

The applicant had applied for the post of Constable (Executive) in Delhi Police during the recruitment year 2002. He was provisionally selected subject to verification of his character and antecedents, medical fitness etc. One of the eligibility condition was that candidates from all parts of the country should have got their names registered with the Employment Exchange on or before 13.3.2002. During scrutiny of the applicant's papers, it was revealed that he got his name registered with the Employment Exchange, Rewari (Haryana) on 27.3.2002 i.e. after the cut off date for the purpose.

2. A show cause notice had been issued to the applicant on 3.4.2003 as to why his candidature should not

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be cancelled. The applicant submitted his reply. On consideration of the same, the Deputy Commissioner of Police concerned recorded that the applicant did not fulfil the eligibility condition. He was found not eligible for the abovesaid reason and his candidature had been cancelled.

3. By virtue of the present application, the applicant seeks quashing of the said order dated 3.11.2003. The petition as such is being contested.

4. This question has been considered by this Tribunal in the case of Jagbir Singh vs. Lt. Governor, Delhi and another (O.A.1170/2000) decided on 19.1.2001 and also in O.A.193/2004 entitled Ombir Singh vs. Govt. of NCT Delhi and others decided on 21.7.2004. A similar controversy had arisen and this Tribunal had allowed the petitions.

5. In another matter entitled Kailash Chand Meena vs. Govt. of NCT of Delhi and another (O.A.314/2004) decided on 31.7.2004, the same controversy was again alive. With slightly different reasoning, the said petition too was allowed and the findings read:

"13. In fact, the present case necessarily has to be considered in the light of Rule 27 of Delhi Police (Appointment & Recruitment) Rules, 1980. The said Rule reads:

"27. Recruitment through Employment Exchange.- All vacancies which are not filled through the Union Public Service Commission or by competitive examination or by departmental promotion or transfers should



invariably be notified in good time to the Employment Exchange."

14. Perusal of the aforesaid Rule would clearly show that all vacancies which are not filled through the Union Public Service Commission or by competitive examination or by departmental promotion or transfers, should invariably be notified to the Employment Exchange. The present vacancy was filled up through a competitive examination confined to Ex-Serviceman. The applicant was put admittedly to Physical Endurance & Measurement Test, Written Test and Interview. Therefore, in terms of Rule 27, taking resort to the names to be sponsored by Employment Exchange, was contrary to the Rules referred to above.

15. Learned counsel for the respondents, however, pointed that the same can only be taken to be relevant for the purpose of cut off date and cut off date was the date of registration with Employment Exchange.

16. We do not dispute the logic that there should be a cut off date but once role of the Employment Exchange for recruitment of the above said post is excluded; we fail to understand why it should be linked with any such date for registration with Employment Exchange. Therefore, the very purpose of such a date must be taken to be arbitrary.

17. Cut off date can be, when a person is to hold educational qualification. It could be a date when application must be received. It could be a date when a person is relieved from the Indian Army or the number of years he has put in by a particular date, but to link the date of registration with Employment Exchange keeping in view the Rule 27 of the Rules referred to above, does not appear to be having any logic and on that count, therefore, candidature of the applicant could not be rejected."

6. Identical is the position herein. On parity of reasoning to which we have referred to above, we allow the present O.A. and quash the impugned order and direct that the claim of the applicant should be processed in



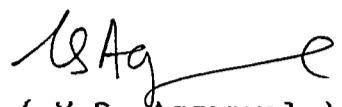
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accordance with law preferably within three months of the receipt of the certified copy of the present order.



(S.A. Singh)
Member (A)

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(V.S. Aggarwal)
Chairman