

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

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OA No. 1613/92

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Date of decision : 16.02.1993

Sh. Jamshed Ali & Ors.

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Applicants

Versus

Union of India & Ors.

..

Respondents

Sh. G.D. Gupta

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Counsel for the applicant

Sh. O.N. Trishal

..

Counsel for the respondents

CORAM

Hon'ble Sh. P.K. Kartha, Vice Chairman (J)

Hon'ble Sh. B.N. Dhoundiyal, Member (A)

1. Whether Reporters of local papers may be allowed to see the judgement ? Yes
2. To be referred to the Reporters or not ? Yes

JUDGEMENT

(Of the Bench delivered by Hon'ble Sh. B.N. Dhoundiyal,

Member (A)

Shri Jamshed Ali and his thirteen other colleagues are aggrieved that even though they were duly selected for the post of Constables in Delhi Police in August 1985, they have not been given appointments so far.

2. On different dates in August, 1985, selections through written tests/physical measurements and interviews were held for recruitment of Constables in Delhi Police at various places in U.P. and Bihar. The applicants were successful and passed the medical examination. Even service agreements were executed. However, later the Commissioner of Police took a decision that only those candidates who had obtained 45% marks would be selected. The decision was made applicable only to candidates selected from U.P. and not to those selected from Kerala or Karnataka. In 1986, the applicants were informed about this new



condition and their non-selection. Some of their colleagues were able to get the required relief through this Tribunal vide judgement dated 22.8.90 in O.A. 640/1986 and order dated 1.10.91 (in R.A. 136/90).

3. The applicants in the present O.A. were scattered at various places and for various unavoidable reasons they could not join the applicants in the aforementioned O.A. They submitted representations to the respondents to extend the benefits of this Tribunal's judgement dated 22.8.90 to them to which no reply was received. They have prayed for the following reliefs :-

- (a) allow the present Original Application of them herein;
- (b) declare that the case of the applicants herein is identical and fully covered by the aforesaid judgements and orders of this Hon'ble Tribunal dated 22.8.90 and 1.10.91 in Original application (OA No. 640/1986) and Review Application (RA No. 136/90).
- (c) direct the respondents to extend the benefit of the aforesaid judgements and orders of this Hon'ble Tribunal dated 22.8.90 and 1.10.91 (supra) to them herein and appoint them Constables in the Delhi Police from due dates with consequential benefits.
- (d) to pass such other further order or orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

4. On 29.6.92, this Tribunal passed an interim order directing the respondents to keep 14 posts of Constables vacant. On 13.7.92, directions were issued that this order shall continue till further orders.

5. The respondents have admitted that they made special recruitment for selection of candidates for the post of Constables in Delhi Police from Districts Shahjahanpur, Kanpur and Farukhabad (U.P.) in the months of August, 1985. Complaints were received that the selections

were not fair. The allegations were not substantiated during the enquiry conducted by the Addl. C.P.(CID). It was however, decided to conduct fresh screening of the candidates. The general candidates securing 40% marks and SC/ST candidates securing 35% marks were called through AN to Delhi and were put La fresh screening process. Only 152 candidates out of 174 provisionally selected were finally given appointments. In 1986, Onkar Singh and 96 other candidates filed O.A. No. 640/1986 against their non-selection. They were given relief by judgements dated 22.8.90 and 1.10.91. The L present application filed five years after the selection and two years after the judgement in Onkar Singh's case is clearly time barred.

6. We have gone through the records of the case and heard the learned counsel for the parties. As regards the question of limitation, the judgement in case of O.A. and R.A. filed by Onkar Singh were given on 22.8.90 and 1.10.91 respectively. The learned counsel for the applicant has explained the reasons for the present applicants not being able to join in that O.A. They were told to wait for the judgement. The applicants submitted representations after learning about the judgement and on not receiving any reply, filed the present application on 1.6.92. The learned counsel for the respondent has cited a catena of judgements on the point of limitation and we have duly considered these. In our view, this case is distinguishable in as much as it involves the question of extension of a judgement to similarly situated persons. It has been held that denial of the benefit of a judgement to similarly situated persons amounts to discrimination (1989 (1) ATLT (SC) 730). We, therefore, over-rule the objection relating to limitation.

7. The other issues involved in this case have already been considered by this Tribunal in O.A. No. 640/1986-Onkar Singh & Ors. Vs. Commissioner of Police, Delhi & Ors. decided on 22.8.1990. The Tribunal identified the following two legal issues :

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"Firstly, whether the Applicants can claim any legal right of appointment to the posts of Constables in the Delhi Police on the basis of the selection held by the Recruitment Team in August, 1985 and secondly whether denial of appointment to the applicants on the basis of the amended recruitment criteria introduced after their selection amounts to discrimination and violates the provisions of Article 16(1) of the Constitution."

The following conclusions were reached :

"After carefully considering the facts and circumstances of the case as discussed above, we are of the view that the amendment to the Standing Order No. 212 introduced w.e.f. 31.3.86 could not be made applicable to the Applicants and the action of the respondents in applying the revised criteria only to the candidates selected from U.P. and not to those selected from other States amounted to discrimination and was violative of Article 16(1) of the Constitution. Accordingly, we direct the respondents to reconsider the Applicants for appointment to the posts of Constables in the Delhi Police on the basis of the standard of eligibility as applicable to the recruitment to the post of Constables in August, 1985. In case any of the applicants has become overaged, the respondents shall grant them suitable age relaxation while reconsidering their cases."

8. This Bench of the Tribunal had occasion to consider this matter in R.A. 136/90 decided on 1.10.91. It was clarified that in case the applicants have already undergone the various tests and interviews, ^{the} ~~the~~ they shall not be subjected to same tests and interviews now in implementation of the directions of the Tribunal and that in case of they were within the prescribed age limit at the time of the selection, they would be eligible for appointment.

9. The case of the applicants in this O.A. is similar on all fours. We, therefore, dispose of the present application with direction to the respondents to extend the benefit of the judgements of the Tribunal dated 22.8.90 and 1.10.91 in case of Onkar Singh and Ors.

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to the applicants before us. The applicants shall be given offers of appointment as Constables and sent for training expeditiously and preferably within a period of three months from the date of communication of this order. The applicants would not be entitled to back wages but they will be entitled to the seniority in accordance with the rules.

There will be no order as to costs.

B.N. Dhundiyal
(B.N. Dhundiyal) 16/2/93.

Member 'A'

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(P.K. Kartha) 16/2/93

Vice Chairman 'J'