

(b)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

OA No.2326/92

Date of decision:- February 11, 1993

Head Const.Virender Singh... Applicant

versus

Union of India through Secretary,  
Ministry of Personnel, Public Grievances,  
& Pensions, New Delhi &ors.... Respondents

CORAM: HON'BLE SHRI P.C.JAIN, MEMBER(A)  
HON'BLE SHRI J.P.SHARMA, MEMBER(J)

For the Applicant .. Sh.S.P.Sharma, Counsel.

For Respondent No.3 .. Shri N.S.Mehta, Counsel  
For Respondents 2&4 .. Shri Ashok Kashyap,  
Counsel.

JUDGEMENT

HON'BLE SHRI P.C.JAIN, MEMBER(A):-

Admitted facts of this case are that in the year 1991, 120 vacancies for the post of Sub Inspector(Executive) in Delhi Police, were advertised by the Staff Selection Commission(SSC in short). Of these 120 vacancies, 12 vacancies(9 general, 2 S.C. and 1 S.T.) were kept reserved for departmental candidates. The applicant who is a Head Constable in the Delhi Police, applied for the same and took the written test in which he qualified. The scheme of the examination as notified was that those who qualified in the written test were required to undergo, before the personality test, physical endurance tests and physical measurements(including vision tests) to be conducted by the Delhi Police. The norms of these physical tests etc. were specified in the advertisement. By a registered letter dated

3.2.92 from the SSC, the applicant was asked to appear in the PET/Vision test to be held on 25.2.92. This letter is said to have been sent to the applicant at his address given in his application form for the aforesaid examination.

But the applicant <sup>as</sup> did not report for the PET/Vision test on the above date. The controversy starts from here. The case of the applicant is that he was on leave from 4.2.92 to 29.2.92 and as such the registered letter sent by the SSC (Respondent No.3) was not received by him prior to the date fixed. It is his case that he got the said letter only on 1.3.92, and as 1st and 2nd were holidays he handed over a representation on 3.3.92 to Respondent No.4 e.g. Deputy Commissioner of Police, Head Quarter(Ist), Police Headquarters, New Delhi and Respondent No.3 with the request to give him another date for PET/Vision test as those tests were going on for the other candidates on that day but he was not given any reply except by letter dated 12.8.92 from D.C.P/HQ(I), Delhi to D.C.P/IV Bn., DAP Delhi in which it is inter alia stated that his application was sent to SSC for consideration but the Commission intimated that they did not entertain the applications of the absentees for retest. It is in this background that the  
(e.)

applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:-

" That the applicant may kindly be permitted to undergo the training with the present batch of successful candidates alongwith whom he has qualified the written test for the training of Sub-Inspector(Executive) of Delhi Police.

That seniority in the batch with whom the applicant has qualified the written test may also be maintained in respect of the applicant, who is a departmental candidate and physically fit with the correct vision.

INTERIM ORDER, IF ANY PRAYED FOR:-

The respondents may kindly be directed to take PET/Vision test and interview of the applicant immediately to enable him to undergo training as Sub-Inspector(Executive) in Delhi Police alongwith the other candidates who have passed the written test with the applicant.

Alternatively the applicant may be allowed to join the training for the post of Sub-Inspector(Executive), Delhi Police alongwith the other candidates of his batch as he is a departmental candidate and other formalities are superfluous in his case."

2. The respondents have contested the OA by filing their replies. One counter reply has been filed on behalf of Respondents 2&4(Delhi Police) and a separate counter reply has been filed on behalf of Respondent No.3(SSC). The applicant has also filed separate rejoinders to the aforesaid separate replies. As the pleadings in this case are complete, this OA is being finally disposed of at the admission stage itself. We have accordingly perused the material on record and heard the learned counsel for the parties.

3. Broadly speaking, the applicant has raised three main contentions in his OA. Firstly, it is stated that during the leave period he had informed his unit giving the detailed addresses and places where he proposed to spend his leave and <sup>it</sup> is, therefore, sought to be contended that the Delhi Police authorities should have taken necessary action to inform him at his leave address about the date fixed for his PET/Vision test. In one of his rejoinders, however, the applicant has changed this basic stand and he has stated that in the notice of the SSC published in the Newspaper, a copy of which has been filed as Annexure 'B' to the counter of respondent No.3, the dates for physical efficient <sup>test</sup> were notified only from 1.3.92 onwards and if there was any change in these notified dates these should have been notified either by sending individual intimation or published in the Newspaper. This having not been done by the SSC, there is a violation of the principles of natural justice and the applicant has been deprived of a higher post in his career. The contention of the applicant both in the OA as well as in the aforesaid rejoinder is misconceived. The SSC who was to intimate him the date of PET/Vision test and as was done by them by registered letter dated 3.2.92, was

not expected to know whether the candidates who had appeared in the examination had gone on leave or were on duty. The Commission is expected to communicate with the candidates only at the addresses given by them in their application form. That is exactly what the Commission did. If the applicant wanted the intimation to be sent to him during a particular period at a different address, it was incumbent on him to duly inform the Commission about ~~his~~ <sup>the</sup> change in <sup>his</sup> address. There is no averment by the applicant that he had informed the Commission about any change in his address at any time or for any period. As regards the case made out by the applicant in his rejoinder in regard to the notified date for PET/Vision test, a perusal of Annexure 'B' to the counter of Respondent No.3 clearly shows that the dates notified for this purpose from 1.3.92 onwards were only for the candidates who had appeared in the examination for the posts in the Central Police Organisations which were simultaneously notified for the above examination. These dates were not for the candidates who had applied for the post of Sub Inspector in the Delhi Police.

4. Another contention of the applicant is that on the date he resumed duty on 3.3.92, PET/Vision tests were being carried out and that such tests for the same examination have been

carried out <sup>as</sup> upto May, 1992 but he has been denied this opportunity arbitrarily. The applicant admits of having received the letter dated 3.2.92 sent by the SSC on 1.3.92, though the version as to how he received it as given in the OA and as given in the rejoinder are significantly different. It is also not his case that he took any action in this regard on the 1st or 2nd of March, 1992. In his application dated 3.3.92 as at Annexure 'B' to the OA, <sup>he</sup> ~~it has~~ not disclosed the time by which he approached concerned Police authorities for PET/Vision test or as to when this application was delivered to the SSC. When Respondents 2&4 in their counter reply stated that the applicant reached Respondent No.2 in the evening of 3.3.92 with an application, the applicant in his rejoinder has stated that he had approached him in the morning of the 3rd March, 1992. However, he does not place any material on record to substantiate his contention. Whenever a Police person leaves his unit to which he is posted on duty his departure from that unit is entered in GD and if the applicant <sup>had</sup> produced a certified copy of the GD entry, it would have been seen whether the contention of the applicant is correct or whether the contention of Respondent No.2&4 is correct. In view of the fact that Respondents 2&4 had stated in their reply which

12

is supported by letters annexed thereto that the SSC had advised them that the interview of the selected candidates would be conducted on 4.3.92 and that all the candidates requesting for re-P.E.T. and also others who came for tests should be tested on or before 3.3.92 and should be directed to attend interview on 4.3.92 in SSC premises in Lodhi Road, New Delhi, Respondents 2&4 who were carrying out PET/Vision test of those candidates who had qualified in the written examination cannot be blamed if the applicant approached them with delay.

5. Another contention of the applicant is that he has suffered because of the controversial stands taken by the SSC(Respondent No.3) in their reply, on the one hand and the stand taken by Respondents 2&4(Delhi Police) in their reply, on the other hand, in the matter as to who was competent to entertain such requests and take a decision thereon. Delhi Police has taken the stand that the date for the PET/Vision test of the applicant was fixed by the Commission and the Commission has also sent to the applicant intimation in that regard and accordingly, the application of the applicant was forwarded to the Commission who replied that they normally did not consider the cases of absent candidates. (Annexure R-II to the counter of respondents 2&4). As the Commission did not direct them

(3)

for taking the PET/Vision test of the applicant after 3.3.92, the PET was not taken by the Delhi Police. It is also stated that PET can be conducted prior to the interview and after the interview, the Delhi Police has no right/authority to conduct the PET of any candidate. The PET test of the candidates who had applied for retest is said to have been conducted on 3.3.92 on the directions of the SSC and the Commission is said to have interviewed those candidates on 4.3.92. It is also stated that the Delhi Police only conducted PET on the directions of the SSC and the plea of the Commission that all kinds of representations of PET is considered by the Delhi Police is wrong. On the other hand, the stand taken by the Commission in its reply is that PET/Vision tests are conducted by the Delhi Police under their own arrangements and as such any appeal or representation for PET/Vision tests has to be considered only by the Delhi Police, accordingly the representation received from the applicant was forwarded to the Delhi Police for necessary action which is concerned thereafter in the matter. Thus, it is clear that different stands have been taken by the two sets of Respondents on this point. It is not for us to decide as to which stand is correct. However, we would like to emphasise that this controversy should be resolved at least

(V)

for the future and we expect that the SSC and the Delhi Police authorities would come to a clear-cut conclusion on the course of action to be adopted in such matters. As regards the facts of the case before us, it is clear that the applicant is primarily to be blamed for what has happened to him in the matter of his non examination for the PET/Vision test, firstly for not duly informing the SSC of a change in his address during the leave period or to ascertain personally from the Commission the likely date for such examination immediately after the results of the written examination were published in the Employment News dated 18-24th January, 1992, and secondly, for keeping quiet for at least for two days on his return from leave. The applicant in his rejoinder has asserted that the PET/Vision test was given to some candidates in May, 1992 and in support of this contention he has referred to the Annexure 'C' of the counter reply filed by the SSC. A perusal of this annexure in no manner whatsoever substantiates the aforesaid contention of the applicant. Even otherwise, he has not shown by any other means that for the examination which he took any candidate who qualified in the written examination for the post of Sub Inspector in the Delhi Police was examined for PET/Vision test by the Delhi Police after 3.3.92. Thus the plea of discrimination



has no basis.

6. The reliefs prayed for by the applicant cannot be granted to him. The examination comprised written examination, PET including vision test, and interview. Unless the applicant has qualified in the PET/Vision test he would not be eligible to be interviewed. Unless the candidate passes all the three stages, he cannot be selected for the post. Moreover, the SSC in their counter reply has stated that the applicant has not/included <sup>been</sup> in the selected list of Sub Inspectors in Delhi Police on the basis of the Sub Inspector Examination 1991, i.e., in other words, the selection has already been finalised. To reopen ~~before~~ the process of selection, and that too for the lapse on the part of the applicant, would neither be in the public interest nor fair to the other candidates who have been selected on merit.

7. In the light of the foregoing discussion, we are of the considered view that the OA is devoid of merit and the same is accordingly dismissed, leaving the parties to bear their own costs.

*J.P.Sharma*  
(J.P.SHARMA)  
MEMBER(J)

SNS

*C.Jain 11/4/93*  
(P.C.JAIN)  
MEMBER(A)