

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.1810/1993
& M.P.No.3182/93

Date of Decision: 30.11.93

Shri Krishan
UDC of CBI presently on
deputation in JAG
Deptt. of NSG as AC-III
Block 'B', 11th Floor, CGO Complex,
Lodhi Road, New Delhi-110 003.

.. Applicant.

(By Shri Sandeep Bhalla, Advocate for the applicant)

Vs.

1. Union of India
through Secretary, M/O Home Affairs,
North Block, New Delhi.
2. Secretary,
DP&T, North Block, New Delhi.
3. The Secretary,
Staff Selection Commission,
New Delhi.
4. The Director,
Central Bureau of Investigation,
Block No.3, CGO Complex,
New Delhi.
5. The Joint Director (A),
CBI (HQ)
CGO Complex, New Delhi.
6. The Dy. Director (A),
CBI, CGO Complex, New Delhi.
7. Mrs. Seema Pahuja, SCS
now Sub Inspector under
Respondents 4 to 6.
8. Shri IK Hassan,
Const. now Sub Inspector,
under respondents 4 to 6.
9. Shri JC Tiwari,
now Sub Inspector under
respondents No. 4 to 6.
10. Sh. M. Shahjahan, Head Const.
now Sub Inspector under
respondents No. 4 to 6.
11. Shri R. Parthasarthy, UDC
now Sub Inspector under
Respondents No. 4 to 6.
12. Shri Sewa Singh, Const.
now Sub Inspector under
respondents No. 4 to 6.

.. Respondents.

CORAM: Shri N.V. Krishnan, Vice Chairman (A).
Shri B.S. Hegde, Member (J).

ORDER

(Delivered by Hon'ble Shri NV Krishnan)

The applicant is aggrieved by the result dated
10-8-92 conveyed to him on 24-8-92 in respect of the
Limited Departmental Competitive Examination (LDCE) for

appointment of Sub Inspectors of police in the Central Bureau of Investigation (CBI) and the orders of appointment given to respondents No.7 to 12 and other 13 candidates to the post of Sub Inspector on the basis of the above examination held on 11-1-92 and 12-1-92.

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2. In the CBI, the recruitment to the post of Sub Inspector has been made by direct recruitment through the Staff Selection Commission who conducts a competitive examination every year. The departmental candidates are also permitted to compete in the examination. It is alleged that none of the departmental constables, head constables and Assistant Sub Inspectors were selected in the examinations held by the Staff Selection Commission.
3. In 1991, the respondents 2 to 6 evolved a new scheme whereunder 15% of the vacancies of direct recruitment quota were reserved for departmental candidates. For this, a LDCE is held by the department and not by the Staff Selection Commission. The examination is open to ministerial employees also.
4. The department issued a circular on 17-9-91 (An.2) to all the authorities concerned informing them about the limited competitive examination. The selection by this method consists of a written examination, a personality test and evaluation of service records. For general candidates, the minimum percentage for qualifying in the written test is 40% and for the personality test and evaluation of service records, the minimum was 50% each. An aggregate of 45% is to be secured.
5. The applicant, an LDC, appeared in the

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examination and the results were sent in the form of a statement by the Assistant Director (Estt.) vide his letter dated 10-8-92 (An.1). This result was got noted by the applicant on 24-8-92. The applicant was not selected for appointment. Instead other persons have been appointed who have been made respondents No.7 to 12. Being aggrieved by this decision of the department, the applicant has filed this O.A. seeking the following reliefs:-

1. Quash the appointment/selection process carried out in pursuance of the departmental written examination held on 11-1-92 and 12-1-92 and also the interview, physical test etc held thereafter; and/or
2. declare the petitioner as appointed to the post of Sub Inspector with effect from such date as deemed fit by this Hon'ble Tribunal;
3. restrain the respondent to hold the departmental examination for the post of S.I. and be directed to make appointments in future through Staff Selection Commission only, every year after declaring the number of vacancies.

6. The matter came before us when we heard the learned counsel for the applicant. The matter was reserved for orders.

7. In the meanwhile, the applicant filed M.P. No.3182/93 with a prayer that the applicant was placing additional information on record which may be taken into account while deciding the question of appointment in O.A.

8. We have heard the learned counsel on the M.P. No.3182/93 also.

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9. We are of the view that this application has no merit, as a prima facie case has not been made out and, therefore, it deserves to be dismissed. We notice from the An.1 statement of result that the applicant has secured 212 out of 400 marks in the three written papers and has thus qualified. However, he has secured only 40% marks in the personality test (interview). The scheme of LDCE (An.II) stipulates that the candidates are required to secure a minimum of 50% marks. Therefore, the applicant is a failed candidate. He cannot, therefore, impugn the conduct of the examination or the appointment of any of the respondents. Though the applicant has placed a number of documents in the O.A. in support of his prayers, we are of the view that the applicant being a failed candidate has no right to agitate in this regard and he cannot also question the appointment of the private respondents.

10. The learned counsel for the applicant has produced before us the judgment of the Jaipur Bench of this Tribunal in OA 1153/92 wherein relief was given to the petitioner in that case for constituting a fresh interview board consisting of three members as specified in the scheme of examination. The learned counsel relies heavily on this judgment for contending that the interview held by the Board was bad as it was held by five members instead of three members as notified in para 4 of the enclosure to the annexure 2 circular letter. Admittedly, the examination is held on the basis of executive instructions. We wanted the learned counsel to argue whether the competent authority could not amend the constitution of the Board from three members to five members and also to explain how this has adversely affected the applicant. It is pertinent

to point out here that in the aforesaid judgment of the Jaipur Bench it has been concluded that there was no bias in favour of candidates from the executive side, which is also the allegation made in this O.A. The learned counsel was unable to satisfy us on this score. The change of constitution of the Board would have materially affected the applicant if he alone was subjected to an interview by a larger Board. There is no such allegation. It would appear that all the candidates were interviewed by such a larger Board. That being the case, no injustice has been caused to the applicant. With great respect, we note that this aspect has not been considered by the Jaipur Bench of the Tribunal. In the circumstances, we find that the interview cannot be impugned on this ground.

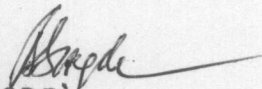
11. In the M.P.No.3182/93, the applicant has furnished the results of the DLCE for the posts of Sub Inspectors held on 11th & 12th January, 1992. He has also enclosed as annexure P2 with the M.P. a letter dated 24-9-93 addressed by the CBI to all the subordinate authorities for holding a fresh personality test for the post of Sub Inspector of Police for the 34 candidates, including the applicant who qualified in the written examination but were not finally selected, having secured less than 50% in the personality test. The prayer in the M.P. is that the contents thereof should be taken into account in disposing of this O.A. and that the annexure P2 circular letter providing for a fresh interview should be quashed.

12. We have heard the learned counsel for the applicant. Nothing is made out in this M.P. to

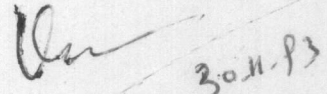
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change the view that we have taken that this application does not make out a prima facie case. In so far as the An.P2 calling for a fresh interview is concerned, that does not arise out of the present O.A. and that circular cannot be quashed in these proceedings.

13. In the circumstances, we find no merit in this O.A. which is dismissed at the admission stage. We make it clear that this will not stand in the way of the applicant from seeking remedies against the An.P2 letter dated 24-9-93 filed alongwith the M.P.No.3182/93, in separate proceedings if so advised. M.P.No.3182/93 is also dismissed.



(B.S. HEGDE)
Member (J).
30.11.93



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(N.V. KRISHNAN)
Vice Chairman (A)
30.11.93