

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A. NO. 69/93

DECIDED ON : 6.8.1993

Shri Madan Singh & Ors.

... Petitioners

Vs.

Union of India & Ors.

... Respondents

CORAM :

THE HON'BLE MR. JUSTICE S. K. DHAON, V.C.(J)

THE HON'BLE MR. B. N. DHOONDIYAL, MEMBER (A)

Mrs. Avnish Ahlawat, Counsel for Petitioners

Shri B. S. Oberoi, Proxy Counsel for Shri
Anoop Bagai, Counsel for Respondents

JUDGMENT (ORAL)

Hon'ble Mr. Justice S. K. Dhaon —

The principal relief claimed by the three petitioners, namely, S/Shri Madan Singh, Prakash Chand Joshi and Shiv Kumar Singh, is that the respondents may be directed to appoint them to the post of Constable in Delhi Police on the basis of the ~~select~~/merit list prepared in August, 1985, from the date similarly situated persons were appointed from the said select/merit list in the year 1992 as a result of the decision of the Tribunal in D.A. No. 640/86, with all similar and consequential benefits.

2. A counter affidavit has been filed on behalf of the respondents. In it, the material averments are :#

A recruitment team headed by Shri M. A. J. Farooqi, the then Deputy Commissioner of Police was sent to Distt. Shahjahanpur, Kanpur and Farukhabad, U.P. in the month of August, 1985 for a selection of about 475 candidates for the post of Constable in Delhi Police. The recruitment team selected 345 candidates provisionally and another 23 on waiting list,

(8)

subject to verification of their character antecedents by the local police. Some anonymous/pseudonymous complaints were received alleging that the recruitment party headed by Shri Farooqi had indulged in extortion of money from the candidates and the recruitment was not fair. The Commissioner of Police ordered an inquiry to be conducted by Shri R. K. Sharma, the then Addl. Commissioner of Police (CID) into the allegations against the recruitment team. However, during the course of inquiry, the allegations levelled against the recruitment team could not be substantiated. In view of the serious allegations against the recruitment team, it was decided to conduct fresh screening of the candidates selected from U.P. and Bihar to assess their suitability for the post of Constable. Smt. K. Deol, the then DCP was nominated to conduct the fresh screening of these candidates.

3. It appears, while taking a decision that fresh screening should take place, the authority concerned had in view a fresh set of regulations. Some of the candidates who had been screened earlier stood automatically eliminated on account of the enforcement of the new regulations, as they did not fulfil the requirements of these regulations. Therefore, in the second round of selection which was conducted by Smt. Deol, a limited number of candidates who fulfilled the requirements of the new regulations alone were invited for screening.

4. 97 candidates who had appeared in the first round and who had automatically been disqualified on account of the enforcement of the new regulations, came to this Tribunal by means of O.A. No. 640/86. This Tribunal on 22.8.1990 allowed the O.A. and held that the earlier selection was good

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and also held that the new regulations could not be given retrospective effect so as to disqualify those who had appeared in the first selection and found fit. It accordingly directed that the 97 petitioners before it should be issued appointment letters. It also issued some directions regarding the standard to be adopted in their cases while issuing the letters.

5. It appears that, after the said decision of the Tribunal, the respondents took the stand that the petitioners in O.A. 640/86 had to undergo some fresh tests. They, therefore, preferred a review application before the Tribunal. Vide its order dated 1.10.1991 in the review application, the Tribunal issued some directions. Some of the directions, as material, were these : In case the petitioners (petitioners in O.A.640/86) have already undergone the various tests and interviews, they shall not be subjected to the same tests/interviews now in implementation of the directions of the Tribunal. In case they were within the prescribed age limits at the time of the selection, they would be eligible for appointment now even though some of them may have, in the meanwhile, become overaged.

6. We may, at this stage, indicate that the respondents preferred a Special Leave Petition against the order dated 22.8.1990 passed by this Tribunal in O.A.640/86 which was dismissed on 7.1.1992. The respondents also challenged the order passed in the review application by means of SLP which too was dismissed.

7. The petitioners were duly selected in the first round. The petitioner No.1, Shri Madan Singh, was selected at the Kanpur centre; the petitioner No.2, Shri Prakash Chand Joshi,

847

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was selected at the Farukhabad centre; and the petitioner No.3, Shri Shiv Kumar Singh, was selected at the Shahjahanpur centre. On 24.1.1992, the petitioners made a joint representation to the Commissioner of Police praying therein that, in view of the order dated 22.8.1990 passed by this Tribunal in O.A.640/86 and the order dated 7.1.1992 passed by the Supreme Court in the SLP, letters of appointment may be issued in their favour. Having failed to receive any reply to their representation, the petitioners sent a reminder on 16.4.1992, but in vain. They, therefore, approached this Tribunal by means of this O.A.

8. So far as the merits of the case are concerned, learned counsel for the respondents has not been able to advance any argument. We also see no reason as to why we should not follow the decision given by this Tribunal in O.A.640/86. In the normal course, the petitioners are entitled to the same directions which were given in O.A.640/86 coupled with the directions given in the review application. However, in order to defeat this application, the respondents have raised the plea of limitation. In the counter affidavit filed on behalf of the respondents, it is stated that the petitioners were duly informed of the fact that they would not be issued letters of appointment in view of the changed policy. In the rejoinder affidavit filed on behalf of the petitioners, this fact has been denied. It is interesting to note that in the counter affidavit there is not even a whisper about the mode of communication to the petitioners — whether they were informed by registered post or whether by means of publishing a notice in newspapers or whether it was sent by ordinary post. It appears to us that since 345 persons were involved, the respondents may not have sent them individual communications.

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However, on the material on record, we are not in a position to record a categorical finding that the respondents had sent due communications to the petitioners. It is thus obvious that the respondents did not take any steps to inform the petitioners of the stand taken by them. It may be that the petitioners in due course acquired knowledge of the fact that O.A.640/86 which was pending before this Tribunal. We have already recorded a finding that on 24.1.1992, i.e., immediately after the decision of the Supreme Court on 7.1.1992 in the SLP preferred by the respondents, the petitioners made a representation.

9. Therefore, It can be said that the petitioners were justified in keeping quiet till 24.1.1992. Keeping in view the fact that some of the selectees of the first round had been given the letters of appointment in accordance with the judgment given by this Tribunal in O.A. 640/86 and also keeping in view the fact that thereafter some more selectees came to this Tribunal and got the same relief, we feel that it would be unjust and unfair to the petitioners if they are not treated at par with those people. We are, therefore, convinced that this is a fit case for condonation of delay, if any.

10. There is another way of looking at the problem so far as the petitioners' case is concerned. After the order of the Supreme Court in the SLP on 7-1-1992, the petitioners could have approached the respondents to implement the directions of this Tribunal in O.A.640/86 and issue them letters of appointment as well. Thereafter, upon failure of the respondents to take any action, they could have approached the this Tribunal with the prayer for issuance of a writ in the

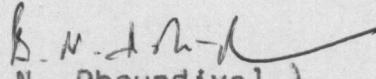
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mandamus
nature of mandate commanding the respondents to issue
letters of appointment. We are saying so because in O.A.
640/86 it has been categorically held that on account of
the selection made in the first round the selectees acquired
a legal right to the issuance of appointment letters.

11. This petition succeeds and is allowed. The respondents
shall issue letters of appointment to the petitioners. While
doing so, they shall subject the petitioners only to a medical
test. They shall also, if they so consider, call for a
fresh verification of their character antecedents. The
authority concerned shall implement these directions within
a period of three months from the date of receipt of a
certified copy of this order.

12. There shall be no orders as to costs.


(B. N. Dhadial)
Member (A)


(S. K. Dhaon)
Vice Chairman (J)

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