

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.NO.180 OF 2015

New Delhi, this the 19th day of January, 2016

CORAM:

**HON'BLE SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER**

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Rahul (Roll No. 707921)
s/o Sh.Narender Singh,
R/o Vill & PO Chhudani,
The-Jhajjar,
Bahadurgarh, Haryana

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Applicant

(By Advocate: Mr.U.C.Shrivastava)

Vs.

Union of India through

1. The Chief Secretary,
Govt. of NCT of Delhi, Delhi Secretariat,
New Delhi.
2. The Commissioner of Police,
Police Headquarters, I.P.Estate (I.T.O),
New Delhi.
3. The Dy.Commissioner of Police,
Recruitment Cell NPL, Delhi

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Respondents

(By Advocate: Ms. Harvinder Oberoi)

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ORDER

Raj Vir Sharma, Member(J):

The applicant has filed the present O.A. seeking the following
reliefs:

- õ(a) Directing the respondents to place the relevant records pertaining to the present O.A. before their Lordships for the proper adjudication in the matter in the interest of justice.
- (b) Directing the respondents to consider and finalize the case of the applicant for issuing the appointment order within some stipulated period as the batch mates of the applicant have already been appointed whereas in case of the applicant there is nothing, with all other consequential benefits admissible to the applicant in accordance with the relevant rules and instructions on the subject.
- (c) Allowing the O.A. of the applicant with all other consequential benefits and cost.
- (d) Any other fit and proper relief may also be granted.ö

2. The brief facts of the applicant's case, as projected in the O.A., are that in the year 2011 the Delhi Police issued Advertisement calling for applications from eligible persons for recruitment to the post of Constable (Executive)-Male. In response thereto, he made application as an OBC candidate. He was allotted Roll No.707921. He appeared and qualified in the physical endurance test and written examination conducted by the Delhi Police. Thereafter, his documents were verified, and medical examination and police verification were completed by the Delhi Police. When offers of appointment were issued to other selected candidates, and no offer of appointment was issued to him, he made enquiry, and he was verbally informed by the Delhi Police that his candidature was cancelled. Hence, he filed the present O.A. on 11.12.2014 seeking the reliefs as aforesaid.

3. In their counter reply, the respondents have stated that the notification to fill up 2623 vacancies in the post of Constable (Executive)-

Mail in Delhi Police was published in the leading newspapers on 23.10.2011 and Employment News dated 29.10.2011. The applicant was an OBC candidate for selection and recruitment, pursuant to the said notification. After physical endurance test and written examination, the applicant was declared qualified and included in the additional list of candidates who were called for medical examination and verification of documents. He scored 66 marks, i.e., the minimum qualifying marks for OBC candidates, but could not make the grade in the final merit list due to his being younger in age. As per paragraph 23(iv) & (iv) of the Standing Order No.212/2011 in the matter of recruitment of Constables (Executive)-Male/Female in Delhi Police, a main list containing roll numbers of 2539 candidates and an additional list containing the roll numbers of 247 candidates, who were declared qualified for medical examination and police verification, were published on 22.5.2012. The applicant was included in the additional list of candidates called for medical examination and police verification. The said additional list contained the following note:

Following additional candidates have been called for Medical Examination and filling up of attestation form provisionally, merit-wise and category-wise. Their final selection would depend upon vacancies arising category-wise in case finally selected candidates in main list do not join the department for the reasons of (i) being medically unfit (ii) adverse PVR and (iii) otherwise not willing to join the department. It is made clear that these candidates will have no claim and right for appointment against the vacancies notified for this recruitment only on the ground of being called for medical examination, filling up of attestation form, etc. They can get appointment only in the event any vacancy (category-wise) arises as a result

of selected candidates not joining the department for the reasons stated above. Vacancies shall be filled up strictly according to the category-wise merit list. Further, this list will be valid for this recruitment only and no candidate from this list will be considered against any further/other vacancies. In any case total number of candidates selected finally shall not exceed the number of vacancies advertised. The candidates may note that while preparing the select list, wherever there was a tie in marks, candidate older in age was selected. The above list of qualified candidates is provisional and should not be treated or claimed by the candidates as their final selection.ö

Accordingly, the medical examination and police verification of the applicant were conducted. The cut-off marks (minimum qualifying marks) for different categories were as under:

S.No.	Category	Cut-off marks(minimum qualifying marks)
1	General	68
2	OBC	66
3	SC	57
4	ST	65

Later, a list of 06 candidates (04 of General category, and 02 of OBC category) from the said additional list was published on 24.1.2013 for the replacement of candidates who were selected and included in the main list, but did not join the Department due to various reasons. The applicant failed to make the grade in the said list due to his being younger in age.

3.1 It is also stated by the respondents that one Vinod Kumar (Roll NO.735996), an OBC candidate, who scored 66 marks, but failed to make the grade in the final result/merit list declared on 22.5.2012 due to his being younger in age, approached the Tribunal, vide OA No.3431 of 2012, challenging the answers to three questions, viz., 9, 41 and 94 of Question

Booklet Series A. The Tribunal, vide its order dated 25.7.2014, disposed of the said O.A. with direction to the respondents to refer the matter to an Expert Committee, and to furnish the opinion of the Expert Committee to the said applicant. In compliance with the Tribunal's direction, an Expert Committee was constituted by the Commissioner of Police, Delhi. The Expert Committee submitted its report. The report of the Expert Committee was examined, and decision was taken by the respondents in the light of the Hon'ble Supreme Court's judgments in Civil Appeal Nos.5318-5319 of 2013 (**Vikash Pratap Singh and others Vs. State of Chhatisgarh**), and in Civil Appeal No.2515-2516 of 2013 (**Rajesh Kumar & others vs. State of Bihar**). As per the decision taken by the respondents, question nos. 9 and 94 (Question Booklet Series A) as well as some questions of other Booklet Series B, C and D, having different sequence numbers, were deleted from the computation of result. Thereafter, the re-evaluation of answer sheets (OMR) of all the candidates was carried out, and a revised merit list (category-wise) was drawn up, in which the cut-off marks for different categories of candidates were as follows:

Initial category-wise cut-off marks			Category-wise cut off marks aftr re-evaluation of answer sheets (OMR)		
Sl.No.	Category	Cut-off marks (minimum qualifying marks)	Sl.No.	Category	Cut off marks (minimum qualifying marks)
1	General	68	1	General	68
2	OBC	66	2	OBC	67
3	SC	57	3	SC	57
4	ST	65	4	ST	65

On re-evaluation of his answer sheets (OMR), the applicant scored 64 marks. Therefore, the applicant failed to make the grade in the revised merit list.

4. In his rejoinder reply, the applicant, besides reiterating more or less the same averments and contentions as in his O.A., has contended that the stand taken by the respondents to justify his non-selection and/or non-appointment is contradictory, and that the re-evaluation of the answer sheets of the candidates was done, and the marks earlier awarded to him in the written examination were reduced from 66 to 64 marks by the respondents without giving him any notice. It is, therefore, submitted by the applicant that his non-selection/non-appointment on the basis of re-evaluation of his answer sheets is unsustainable in law, and the respondents should be directed to consider his case for appointment.

5. We have perused the records, and have heard Mr.U.Srivastava, the learned counsel appearing for the applicant, and Ms.Harvinder Oberoi, the learned counsel appearing for the respondents.

6. The applicant has not specifically refuted the statement made by the respondents that on the basis of the report of the Expert Committee, decision was taken by the competent authority to re-evaluate the answer sheets of all the candidates, and on re-evaluation of the answer sheets (OMR), the applicant scored 64 marks in the written examination. The applicant has also not specifically rebutted the statement of the respondents

that 67 marks in the written examination were the cut-off marks for OBC candidates, and, therefore, the applicant, having scored 64 marks, could not make the grade in the final merit list. When the respondents constituted the Expert Committee in compliance with the direction issued by the Tribunal in OA No.3431 of 2012 (**Vinod Kumar Vs. Commissioner of Delhi Police**), decided on 25.7.2014, and on the basis of the report of the said Expert Committee, the re-evaluation of answer sheets (OMR) of all the candidates was done and the final merit list was prepared by the respondents in accordance with the decisions of the Honøble Supreme Court in **Vikash Pratap Singh and others Vs. State of Chhatisgarh** (supra), and in **Rajesh Kumar & others vs. State of Bihar** (supra), we do not find any substance in the contention of the applicant that the re-evaluation of his answer sheet in the written examination, and his non-selection/non-appointment because of his not making the grade in the final list prepared after re-evaluation of the answer sheets of all the candidates without any notice to him, were unsustainable. On the facts and in the circumstances of the case, we are also of the considered view that when the earlier evaluation of the answer sheets of all the candidates and the merit list prepared based on the said evaluation were found to have been vitiated because of patent errors in the question papers and the model answer key, and when the respondents, on the basis of the opinion of the Expert Committee, re-evaluated the answer sheets of all the candidates and prepared the final merit list in accordance with the law

laid down by the Hon^{ble} Supreme Court, the candidates, like the applicant, cannot be allowed to call in question the re-evaluation of their answer sheets, and final merit list based on re-evaluation, on the ground of non-issuance of notice to them of re-evaluation, or of preparation of the final merit list on the basis of re-evaluation. This apart, the applicant's inclusion in the additional list, and his consequent medical examination and police verification prior to re-evaluation of answer sheets of all the candidates and preparation of the revised merit list by the respondents did not confer on him any right to be considered for final selection and appointment. The applicant has not produced before this Tribunal any material to show that there was any glitch, illegality, or irregularity, in the re-evaluation of his answer sheet in the written examination, and preparation of the final merit list wherein he was not included because of his having not made the grade.

7. For the foregoing reasons, we do not find any merit in the O.A. Accordingly, the O.A., being devoid of merit, is dismissed. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER

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