

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA/100/1314/2014

Reserved on : 09.08.2016.

Pronounced on : 12.08.2016.

**Hon'ble Sh. Shekhar Agarwal, Member (A)
Hon'ble Sh. Raj Vir Sharma, Member (J)**

Sh. Tahar Singh, Age-43 years,
Constable,
S/o Sh. Chatarpal Singh,
A-4A, Hari Nagar Part-II,
Jaitpur Road, Badarpur,
Delhi-44.

..... Applicant

(through Sh. Sachin Chauhan, Advocate)

Versus

1. Govt. of NCTD through
the Commissioner of Police,
Delhi Police,
Police Headquarters, MSO Building,
I.P. Estate, New Delhi.
2. The Joint Commissioner of Police,
Headquarter, Delhi Police through
The Commissioner of Police,
Delhi Police, Police Headquarters,
MSO Building, IP Estate, New Delhi.
3. The Dy. Commissioner of Police,
Establishment through
Commissioner of Police,
Delhi Police, Police Headquarters,
IP Estate, MSO Building,
New Delhi.
4. The Dy. Commissioner of Police,
Traffic (HQ) through the
Commissioner of Police,
Police Headquarters, MSO Building,

IP Estate, New Delhi. Respondents
(through Sh. K.M. Singh, Advocate)

ORDER

Mr. Raj Vir Sharma, Member (J)

The applicant was appointed as Constable (Exe.) in Delhi Police in the year 1993. As per Rule-12 of Delhi Police (Promotion & Confirmation) Rules, 1980 he was eligible to appear in promotion List-A test. He appeared in the same in the year 2013 and obtained 122 marks whereas the cut off for the same was 123 marks. When he saw his result on 18.06.2013 from the website of the respondents, he came to know that he had not been awarded any marks for possessing a valid driving licence. He submitted a representation against the same on 19.06.2013. However, the respondents rejected it by impugned order dated 12.03.2014. Hence, he has filed this O.A. seeking the following relief:-

“To quash and set aside the order dated 12.03.2014 whereby representation of applicant has been rejected and to further direct the respondents to accord the applicant 1 mark for Driving Licence in List ‘A’Test for the year 2013 and then if the applicant qualifies on merit then to promote the applicant to List B and further to Head Constable with all consequential benefits including seniority & promotion and pay & allowance.”

2. The contention of the applicant is that he possessed a valid driving licence, a copy of which he has annexed as Annexure A-5 to his OA, which was issued on 18.07.2000 and was valid till 17.07.2020. However, inadvertently, while filling his application form, he left the

relevant column blank. He argued that even though he did not fill the relevant column in the application form, the respondents were well aware of the fact that he had a valid driving licence. This is because he had earlier appeared in the same test in the year 2012 wherein he had mentioned in the application form that he possessed a valid driving licence. Further, he had also taken a loan from the respondents for purchase of motor cycle and such a loan is not granted as per departmental rules to an employee who does not possess a valid driving licence. Thus respondents should have given him marks for this. Learned counsel for the applicant argued that in case this extra mark is awarded to the applicant, he would become eligible to be included in the List-A for promotion.

3. In their reply, the respondents have submitted that the applicant had left Column-21(i) of the application form dealing with possession of driving licence, blank. Thus, he could not be awarded any marks for the same. Further, the factum of his possessing a driving licence is also not entered in his service book and the applicant had not made any effort to get this entered in his record either till the date of publication of the result of List-A. Thus, the applicant has been careless not only in filling the application form but also in getting his service record updated. Hence, he cannot now be awarded extra mark for possessing driving licence as this would amount to giving benefit to him retrospectively.

4. We have heard both sides and have perused the material placed on record. From a copy of the application form filed by the applicant, which is annexed at pages-15 & 16 of the reply filed by the respondents, it is evident that the applicant had indeed left the relevant Column-21(i) dealing with possession of driving licence blank. The applicant argued that he had appeared in similar test a year before and while filling application form for that test he had mentioned that he possessed the driving licence. This should have been taken into account by the respondents. This argument is not convincing. This is because the respondents while screening applications for the test to be conducted in a particular year are not required to see the application forms of the previous year's test. Similarly, his argument about having taken a loan for motor cycle is also not convincing. This is because while screening applications for List-A test, the respondents were not required to look into the record of the employees to ascertain whether they had taken a loan for purchase of motor cycle.

4.1 Further, the applicant has not denied that he had not taken steps to get the possession of driving licence entered into his service record also. Thus, in our opinion, the respondents cannot be faulted for not awarding any marks in this regard to the applicant.

4.2 The applicant, however, relied on the judgment of Hon'ble High Court of Delhi in the case of **Deepak Kumar Singh & Ors. Vs. UOI & Ors.** [WP(C)-5663/2013] dated 14.07.2014 wherein Hon'ble High Court had condoned certain lapses committed by the petitioners therein while filling their application forms for the post of Constable (GD) in CPOs and had granted relief as follows:-

“ 5. In the light of the said decision taken by the respondents, the grievance of all these petitioners who were being denied appointment only because of the fact that they left column No.17 blank or did not properly indicate their preference in the said form in terms of the order dated 16th May 2014, although they were higher in merit stands redressed. The petitioners would be required to give their unconditional undertaking to the effect that they shall not claim any seniority or any consequential benefit qua those who are placed in the ? select list? Or the ?reserve list?. These petitioners shall be filing their undertakings within a period of two weeks and the SSC shall carry out the entire exercise of allocating these petitioners to the respective forces within a period of two months as an upper limit.”

4.3 Learned counsel prayed that the applicant herein was also prepared to give up his claim for seniority and other consequential benefits, in case he was considered for inclusion in the List-A.

4.4 Learned counsel for the respondents, however, relied on the judgment of Hon'ble Supreme Court in the case of **Chander Prakash Tiwari and Ors. Vs. Shakuntala Shukla and Ors.**, 2002(6) SCC 127 wherein it has been held that if a candidate appears in an interview and the result of the interview is not palatable to him then he cannot turn around and subsequently contend that the process of

the interview was unfair or that there was some lacuna in the process. However, in our opinion, this judgment is not relevant to the instant case as the applicant herein is not contending that there was any lacuna in the selection process. Rather he is seeking award of one extra mark after condonation of mistake committed by him.

4.5 Learned counsel for the respondents also relied on the judgment of Hon'ble Supreme Court in the case of **State of Uttarakhand and Anr. Vs. Sri Shiv Charan Singh Bhandari and Others**, 2013(6) SLR 629 (SC) to say that this case was time barred and mere filing of representations does not extend the period of limitation.

4.6 In our opinion, this stand taken by the respondents was not sustainable. This is because the result of the written test was declared on 18.06.2013. The applicant made a representation for awarding an extra mark on the very next date i.e. 19.06.2013. The respondents rejected his representation on 12.03.2014 by the impugned order. The O.A. has been filed on 15.03.2014. Thus, there is no delay in filing of this O.A.

5. After considering the aforesaid submissions, we are of the opinion that the applicant did inadvertently fail to fill the relevant Column-21(i) of the application form regarding possession of valid driving licence. However, following the judgment of Hon'ble High Court of Delhi in **Deepak Kumar Singh's** case (supra) relied upon by

the applicant, we direct the respondents to condone the aforesaid lapse on the part of the applicant and award appropriate marks to him for possession of a valid driving licence. Thereafter, they may process his candidature for inclusion in the List-A and subsequent promotion to the post of Head Constable provided he gives an undertaking to forgo his claim for seniority or any other consequential benefit and provided he is otherwise eligible. This exercise shall be completed within a period of 60 days from the date of receipt of a certified copy of this order. The O.A. is disposed of accordingly. No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/