

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

O.A.No.1717/2014

Reserved on 18th January 2016

Pronounced on 2nd February 2016

Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Dr. B.K. Sinha, Member (A)

Madhu Kumari aged about 35 years
d/o Surjeet Singh
r/o D-4 PCR Building
Amba Bagh Police Colony
Sarai Rohilla, New Delhi-7
Currently working as Head Constable in
Paharganj Police Circle in Delhi Police

..Applicant

(Mr. Saurabh Sharma, Advocate)

Versus

1. The Commissioner of Police
Police Headquarters, MSO Building
New Delhi-2
2. Through Secretary
Staff Selection Commission
Block 12, CGO Complex
Lodhi Road, New Delhi-3

..Respondents

(Mrs. Rashmi Chopra, Advocate for respondent No.1 -
Mr. S M Arif, Advocate for respondent No.2)

O R D E R

Mr. A.K. Bhardwaj:

The direct recruitment to the post of Women Sub Inspector (Executive) in Delhi Police is made under Rule 14 (a) of Delhi Police (Appointment & Recruitment) Rules, 1980 and Standing Order No.369/2013. Vide corrigendum published on 09.04.2013 by the Staff Selection Commission (SSC), a correction was made in Advertisement

No.16.03.2013 and 155 vacancies of Women Sub Inspector (Executive) were incorporated / notified for being filled up. The category-wise breakup of the vacancies reads thus:-

| UR | OBC | SC | ST | Total |
|----|-----|----|----|-------|
| 77 | 42 | 24 | 12 | 155 |

2. As per the notice published on 16.03.2013 and the corrigendum dated 09.04.2013, the standard for Physical Endurance Test (PET) for the post in question was as under:-

- “(a) 100 metres race in 18 seconds
- (b) 800 metres race in 4 minutes
- (c) Long Jump : 2.7 metres (9 feet) in 3 chances
- (d) High Jump : 0.9 metres (3 feet) in 3 chances”

3. The PET as well as Physical Standard Test (PST) were conducted by the SSC at BSF Complex, New Delhi. After the PET/PST, written tests and interview, the final result for the post was declared and 155 candidates were included in the select list for appointment as Women Sub Inspector (Executive). The applicant applied for the post as a departmental candidate. On 29.10.2013, she participated in PET and was declared disqualified in 100 metres race, thus she filed present Original Application praying therein:

“(a) To direct the respondents to conduct the Physical test again of the applicant as per relaxed standard given for the departmental candidates.

(b) To allow applicant to appear in only that tests which was not cleared as per relaxed standard by the applicant.

(c) To direct the respondents to conduct the Physical test after getting medically fit because of applicants condition and may be considered on humanitarian Ground.

(d) To allow applicant to appear in Interview first before the Physical Test because of the applicant's condition and on Humanitarian ground.

(e) To allow OA with cost.

(f) To pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case."

4. According to the applicant, first she participated in 100 metres race and after qualifying the same, she was given a chance to participate in long jump, but thereafter she was asked to leave the area and in the PET result, she was shown as not qualified in 100 metres race. It was also contended on her behalf that the SSC released a list of 124 departmental candidates of Delhi Police, who were entitled to be subjected to relaxed standard of PET on 10-11.03.2014 and were subjected to fresh PET with relaxed standard. Her further stand is that this Tribunal in O.A. Nos. 2033/2013, 1687/2013 and 1650/2013, wherein issue of relaxed PET for departmental candidates was involved, passed the interim order dated 07.10.2013, in implementation of which departmental candidates were allowed to participate in the PET with relaxed standard.

5. According to the respondents, prior to amendment in the Recruitment Rules (Rule 14 (a) of Delhi Police (Appointment and Recruitment) Rules, 1980) for the post of Sub Inspector notified on 03.04.2013, the maximum age limit of the departmental candidates was different and there was provision for relaxed physical standard but after the amendment in the Rules since the age limit for departmental candidates was reduced from 40 years to 30 years, there was no provision for relaxation in PET for the candidates. According to them, 125 candidates

participated in the PET with relaxed standard only in implementation of the interim Order passed by the Tribunal.

6. Mrs. Rashmi Chopra, learned counsel for respondent No.1 explained that in paragraph 10 (A) of the Advertisement dated 16.03.2013 published by the SSC, the standard of PET for the post of Women Sub Inspector (Executive) in Delhi Police was clearly mentioned and in paragraph 10 (c) (ii) of the Advertisement, there was a mention about relaxation in PST/PET for departmental candidates in Delhi Police, but subsequently the Rule 14 (c) (ibid) and Standing Order No.369/2013 were amended to align the recruitment standard of Women Sub Inspector (Executive) in Delhi Police with Central Armed Police Forces, therefore, the relaxation in PET for departmental candidates mentioned in paragraph 10 (c) (ii) of the Advertisement was deleted by the SSC vide corrigendum dated 09.04.2013 whereby 155 vacancies of Women Sub Inspector (Executive) were notified to be filled up. Paragraph 4.6 of the reply filed on behalf of respondent No.1, she read out, reads thus:-

“4.6 That the contents of para 4.6 are wrong & denied. In para 10 (A) of the advertisement published on 16.03.2013 by the Staff Selection Commission, the standard of Physical Endurance Test for the post of W/S.I (Exe.) Exam.-2013 was clearly mentioned. However, at para 10 (c)(ii) of the advertisement there was mentioned relaxation in PST/PET for departmental candidates of Delhi Police. It is intimated that rule 14 (c) of Delhi Police (Appointment & Recruitment) Rules, 1980 and Standing Order No.369/2013 were amended to align the recruitment standards of Women S.Is in Central Armed Police Forces (CAPFs), therefore, the relaxation in PET for departmental candidates mentioned at para 10 (c) (ii) was deleted by the SSC vide corrigendum dated 09.04.2013 and incorporated / notified 155 vacancies of W/S. I (Exe.) for Exam.-2013.”

7. She further explained that applicants in O.A. Nos.2033/2013, 1687/2013 and 1650/2013 had approached this Tribunal before the PET was held and their main plea was that the age limit for departmental candidates should not have been reduced, while in the present case the applicant, who was subjected to PET in accordance with the Rules in vogue, has questioned her disqualification.

8. We heard the learned counsels for the parties and perused the record.

9. There is no substance in the plea of the applicant that she should have been subjected to the PET with relaxed standard, as after the amendment in the Recruitment Rules, the standard for departmental candidates for the post of Women Sub Inspector (Executive) in Delhi Police was kept same, as that for Central Armed Police Forces. The plea taken by respondent No.1 in paragraph 4.6 of the reply in this regard has been reproduced in the preceding paragraph.

10. As far as the reliance placed on an interim Order passed by the Tribunal in O.A. Nos.2033/2013, 1687/2013 and 1650/2013 (supra) is concerned, in the said Original Applications, after the selection process had been set in motion the applicants were rendered ineligible for the post on the ground that they had crossed the upper age limit as amended. It was in this wake that the interim Order was passed directing the respondents to allow them to participate in the PET as per un-amended Rules. Finally, in the said O.As, it was let to the wisdom of the concerned Committee to take view regarding upper age limit for the post of Women Sub Inspector (Executive). The controversy involved in the present matter is entirely different from the one involved in the aforementioned Original Applications (O.A. Nos.2033/2013, 1687/2013 and 1650/2013), the Order

in which has been relied upon on behalf of the applicant. In her case, it was not so that she was held ineligible for the post. In fact, being considered eligible for the post in question in all respects, she was allowed to take part in the PET wherein she remained unsuccessful in 100 metres race. As per amended Rules, there was no provision of relaxed standard for departmental candidates in Delhi Police. For easy reference, relevant excerpt of the Order 18.07.2014 dated passed in O.A. Nos.2033/2013, 1687/2013 and 1650/2013 (supra), relied upon by the applicant, is reproduced hereinbelow:-

“7. By way of a separate notification dated 3.4.2013, the Rule 14 A of the Rules 1980 was also amended. The relevant excerpt of the said notification reads as under:-

“(a) Sub-Inspector (Women)

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|---------|---|
| (1) Age | 20 to 25 years, relaxable upto: |
| | (i) 28 years for OBCs and 30 years for SCs/STc candidates. |
| | (ii) Upto 35 years (38 years for OBCs and 40 years for SCs/STs) for widows / divorced women / women judicially separated and who are not remarried. |
| | (iii) Upto 30 years (33 years for OBCs and 35 years for SCs/STs) for departmental candidates of Delhi Police |

Aggrieved by the amendment in the Recruitment Rules by the notifications dated 13.3.2013 and 3.4.2013 (ibid) and the notice of examination was corrected vide corrigendum dated 9.4.2013 to the extent that the relaxation in upper age limit for departmental male candidates for Delhi Police was reduced from 40 years to 30 years in case of general category from 45 years to 35 years for SC/ST categories and 43 years to 33 years for OBC. For easy reference, the prayer made in O.A.No.1650/2013 is reproduced hereinbelow:-

“(a) quash and set aside the impugned notification/ actions/ orders or the respondents placed at Annexure A/1, Annexure A/2 and Annexure A/3 of the OA.

(b) direct the respondents to grant all admissible relaxation including age relaxation as admissible to the

departmental candidates as per GOI order and relaxations in Physical Test for all purposes relating to the Sub-Inspector Recruitment 2013 and

(c) Consider the applicants as eligible for appointment to the post and

(d) if any or all make the grade, they be appointed to the post of Sub-Inspector (Exe.) alongwith the batch

(e) award costs of the proceedings and

(f) pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicants and against the respondents in the facts and circumstances of the case.

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33. In view of the aforementioned, we dispose of the present Original Applications with the following directions:

The Committee, which made final decision on 21.2.2013, to follow the same requirement for the recruitment to the post of Sub Inspector (Executive) in Delhi Police as followed in Central Armed Police Forces Examination 2013 would reexamine the impugned amendment in the Recruitment Rules for the post of Sub Inspector (Executive) in Delhi Police, keeping in view the chances of Head Constable (Executive) in Delhi Police to participate in the selection are reduced to minimal and the Assistant Sub Inspector (Executive) in Delhi Police are virtually debarred from participating in selection against 10% quota, though kept eligible for the post of Sub Inspector (Executive) in Delhi Police against said quota; by way of reduction in age relaxation, the field of choice is reduced drastically; once for Assistant Sub Inspector and Sub Inspector in Central Armed Police Forces there can be common examination, how for the other posts to be filled up by following different Recruitment Rules, there cannot be the common examination; when there is no amendment in Rule 5 of the Delhi Police (Appointment and Recruitment) Rules, 1980, how the age relaxation admissible to sports persons in the matter of promotion to the post of Sub Inspector (Executive) in Delhi Police under departmental quota / direct recruitment is done away with; whether the alignment of the examination for direct recruitment / departmental examination in Delhi Police and Central Armed Police Forces can be a sufficient ground to amend the Recruitment Rules; and when before amendment in the Rules the Committee kept in view that the post at Sub Inspector in CAPF is Group 'B' post, while the same in Delhi Police is Group 'C' post. The examination would be completed within 12 weeks and follow up action, if any required, would be taken within further four weeks thereafter.

In the meantime, the appointment, if any made on the basis of selection set in motion vide notice dated 16.3.2013 corrected vide corrigendum dated 9.4.2013 would remain subject to outcome of the aforesaid examination.”

11. The specific stand taken by respondent No.1 in paragraph 4.11 of its reply that there was no relaxed standard for departmental candidates is reproduced hereinbelow:-

“4.11 That in reply to Para 4.11, it is submitted that as per advertisement dated 16.03.2013 and corrigendum dated 09.04.2013 published/notified by the Staff Selection Commission, there was no relaxation in Physical Endurance Tests (PET) for any category of candidate including departmental candidates of Delhi Police for the post of W/SI (Exe.) Exam.-2013. As regard video record of PET vents, no information is available with Delhi Police as the same was conducted by the BSF.”

12. The plea put-forth on behalf of the applicant that she had qualified the 100 metres race is falsified by her own stand that she was not given relaxation in 100 metres race. Had the applicant qualified the 100 metres race, there could be no occasion for her to raise plea that she was not given relaxation. It is also the stand taken by the respondents that selection was finalized in the year 2013 and no appeal was preferred by the applicant. Such was also the plea raised by the respondents in **Devendra Kumar Singh v. Govt. of NCT of Delhi & another** (O.A. No.2686/2013) decided on 23.12.2014 wherein it was viewed thus:-

“6. On a perusal of the records, we find that the averments contained in the O.A. are vague, as vagueness could be. The applicant has not mentioned the date, time, and venue of the Physical Endurance & Measurement Test in which he claimed to have appeared and qualified in the 1600 meters run. He has not produced before this Tribunal any material showing that he qualified in 1600 meters run. The respondents have emphatically asserted that the applicant was issued Chest No.196 to participate in the race event. He participated in Batch No.3 of the race event conducted by respondent-departmental authorities on 18.10.2012 at Ground No.1 of PTS/Wazirabad, Delhi. As per the video of the race event, the race

of Batch No.3 started at 11:2:14 for 7 minutes and was finished in 7 minutes time, and the applicant failed to succeed in the 1600 meters run. The applicant was duly informed of his result. As the applicant failed to qualify in the 1600 meters run, he was not eligible to participate in the remaining tests, i.e., long jump and high jump. Therefore, the question of allowing him to participate in the long jump and high jump events did not arise. The applicant has not rebutted these statements made by the respondents in their counter reply. The applicant, knowing fully well the terms and conditions of the Advertisement, participated in the selection process, and therefore, he cannot be allowed to challenge either the validity of the Advertisement or the selection process in the present O.A. after being unsuccessful in the race event.

7. In 1986 (Supp) SCC 285, *Om Prakash Shukla v. Akhilesh Kumar Shukla*, the Honble Supreme Court held thus:

"24. Moreover, this is a case where the petitioner in the writ petition should not have been granted any relief. He had appeared for the examination without protest. He filed the petition only after he had perhaps realized that he would not succeed in the examination. The High Court itself has observed that the setting aside of the results of examinations held in the other districts would cause hardship to the candidates who had appeared there. The same yardstick should have been applied to the candidates in the district of Kanpur also. They were not responsible for the conduct of the examination."

8. In AIR 1995 SC 1088 = (1995) 3 SCC 486, *Madan Lal v. State of Jammu & Kashmir*, in paragraph 9 of the judgment, the Hon' ble Supreme Court held thus:

" The petitioners also appeared at the oral interview conducted by the Members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted. In the case of *Om Prakash Shukla v. Akhilesh Kumar Shukla* (AIR 1986 SC 1043) it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner."

9. It is also pertinent to mention here that the Physical Endurance & Measurement Test was conducted by the respondent-departmental authorities on 18.10.2012 in which he appeared, whereas he claimed to have made a representation dated 13.4.2013 to the Deputy Commissioner of Police(Recruitment Cell), Delhi, regarding the purported grievance of his not being allowed to participate in the long jump and high jump events, followed by his allegedly qualifying in the 1600 meters run. If at all he felt aggrieved by any action of the concerned departmental authority, who was conducting the Physical Endurance & Measurement Test on 18.10.2012, he ought to have approached the appropriate authority in writing agitating his grievance immediately on or after 18.10.2012. But he did not do so, and only on 13.4.2013, i.e., after about six months of holding of the Physical Endurance & Measurement Test, he claimed to have made a representation in the matter. This delay is found fatal to the claim made by him in the present O.A.

10. In the light of the above discussions, we hold that the applicant has not been able to make out a case for the relief(s) claimed by him in the O.A.

11. As a consequence, the O.A. being devoid of merit is dismissed. No costs.”

Similar is the position herein, as the applicant has also made her first representation after about six months.

13. In view of the above, the Original Application is found devoid of merit and is accordingly dismissed. No costs.

(Dr. B.K. Sinha)
Member (A)

(A.K. Bhardwaj)
Member (J)

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