

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.566 of 2014

Orders reserved on : 28.08.2018

Orders pronounced on : 31.08.2018

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Babru Bhan, Age-29 years,
S/o Sh. Babu Lal,
R/o Vill. & P.O. – Kosli,
tehsil – Kosli, District – Rewari,
Haryana.

(By Advocate : Mr. Sachin Chauhan)

....Applicant

VERSUS

1. Govt. of NCTD through
The Commissioner of Police (AP)
Police Headquarters, I.P. Estate,
M.S.O Building, New Delhi.
2. The Dy. Commissioner of Police (AP)
Recruitment Cell
New Police Line
Delhi- 9.
3. The Chairman Ground
Police Training School
Wazirabad
Through the Commissioner of Police (AP)
Police Headquarters, I.P. Estate,
M.S.O Building, New Delhi.

....Respondents

(By Advocate : Ms. Neetu Mishra for Ms. Rashmi Chopra)

ORDER

Ms. Nita Chowdhury, Member (A):

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

“8.1 To quash and set aside the result of Trade Test declared in the month of Sept. 2013 (Annexed at A-1) in respect of applicant whereby the applicant has been declared DQ (Disqualified) on extraneous reasons in the selection process to the post of Constable (Driver) Male, Delhi Police – 2012 and to further direct the respondent that applicant be given appointment to the post of Constable (Driver) subsequent to declaring the applicant ‘Qualified’ in Trade Test with all consequential benefits including seniority & promotion and pay & allowance.

8.2 To direct the respondent to bring the records/video-graphy of Trade Test in respect of applicant.
 Or/and
 Any other relief which this Hon’ble court deems fit and proper may also be awarded to the applicant.”

2. Brief facts of the case are that the applicant, who along with others participated in the selection process for the posts of Temporary Constable (Driver) in Delhi Police pursuant to the advertisement issued by the respondents in 2012, was also along with others subjected to trade test (Driving Forward and Driving Reverse). He had appeared in the said trade test. According to the applicant, he drove the vehicle (TATA-407) as per selection criteria followed by the authority on 11.7.2013, i.e., (a burning candle was put at a same distance behind the vehicle) as he was directed to drive the vehicle reverse without touching the burning candle in which he successfully drove the vehicle without touching the candle. The respondents had also video-graphed the said trade test and the fact that whether the applicant had successfully qualified the said trade test as per selection criteria followed

on 11.7.2013 can be ascertained from the said video coverage.

2.1 The applicant further stated that although the candidates, who appeared in the said trade test and could not qualify the same, were informed that they were failed in the said trade test, but the applicant was neither orally nor in writing informed that he was disqualified in the trade test. The applicant also averred that he although was irritated by the instructor sitting next to him while conducting the Trade Test but the applicant was confident of his driving, asked the instructor very politely not to give oral instruction.

2.2 The applicant has also made an averment in the OA that he has represented to the respondents raising his grievance that he successfully qualified the criteria of trade test held on 11.7.2013 but he was disqualified on extraneous charges and requested to give appointment to him on the said post, but the same has not been decided by the respondents. However, no such representation as alleged has been annexed with the OA

2.3 In September, 2013, the respondents had declared the final result in which the applicant was declared as disqualified. Being aggrieved by the said final result, the applicant has filed the instant OA seeking the reliefs as quoted above.

2.4 The main grievance of the applicant is that when a candidate disqualifies the trade test, then and there only photograph of the said candidate is taken along with the vehicle at place of fault so that the same can be maintained as proof and even the candidate comes to know that he is declared as disqualified in the said trade test due to a specific fault, but in the case of the applicant, according to him, he successfully qualified in trade test and thus cannot be disqualified in the said trade test, as at no point of time during the said trade test his photograph was taken at the place of fault. However, his candidature was rejected on the ground that he was declared disqualified in the trade test held by the respondents.

2.5 The applicant further averred that video-graphy of the trade test of the applicant will clearly establish that the applicant drove the vehicle successfully and the entire intent of the respondent to conduct the videography of the said trade test was to ensure fair and transparent methods being adopted to judge the skill of the candidate during the driving trade test and further there being no element of arbitrariness and discrimination.

3. Pursuant to notice issued by this Tribunal, the respondents have entered appearance and by filing their counter reply contested the cause of the applicant in which they stated that trade test will only be for qualifying purpose.

The test will include Driving (a) forward, (b) reverse (c) parking and (d) knowledge of traffic signs/basic driving rules.

3.1 The said trade test will be conducted by a Board under the over all supervision of Joint CP/Addl. CP, Delhi assisted by DCP/ACP & other supporting staff as required by the Board. To assist the Board, sufficient number of technical staff from P&L and Traffic will be provided. To maintain impartiality & objectivity, the services of ACPs under training, officials from Delhi Police, Traffic Road Safety Cell & Technical experts from MT section of Delhi Police shall be taken for testing of road sense, maintenance and practical driving.

3.2 In response to advertisement issued by the respondents in 2012, the applicant applied for the said post under SC category. He appeared in physical endurance & measurement as well as written examination. The applicant secured 49 marks in the written examination but his name did not figure in the list of successful candidates as he was declared disqualified in driving (Reverse) rules by the members of the Board as per the provision contained in Sub-Clause (b) of Point-8 of Trade Test of Standing Order framed on the subject. The respondents have also annexed attendance cum result sheet of Driving – practical/Trade Test for the post of Temporary Constable (Driver) in Delhi Police – 2012 held on 11.7.2013 in respect of applicant and some other candidates

as Annexure R-2). As per the said Attendance cum Result sheet dated 11.7.2013, the applicant was declared qualified in Forward Driving, however, he was declared disqualified in the part-B of the trade test, i.e., Reverse Driving, which was conducted/taken by the specialist staff of Road Safety Cell of Traffic Unit and Technical exports of MT Section of Delhi Police. Further, the applicant was orally communicated of his disqualification on the same day, i.e., the day of trade test in the Part-B of the said Trade Test, i.e., driving (reverse) and also in the final result uploaded on internet, he was shown as disqualified. The videography of the event was done only for the purpose of fair dealing and transparency to avoid unscrupulous practices during the recruitment and to maintain the law and order situation. The action taken by the respondents is legal and justified.

3.3 Lastly they contended that the instant OA is liable to be dismissed by this Tribunal.

4. The applicant has also filed his rejoinder in which he has reiterated the averments made in the OA and denied the averments made by the respondents in their counter reply.

5. We have heard learned counsel for the parties and have perused the material placed on record.

6. Counsel for the applicant submitted that the applicant successfully drove the vehicle during the aforesaid trade test and respondents have illegally and with malafide intention

declared him as disqualified which fact can be ascertained by this Tribunal by perusing the videography of the said trade test. Counsel for the applicant further stated that no photograph of the applicant was taken when he was declared as disqualified in the said trade test, which shows that applicant has qualified the said trade test and the respondents have rejected the applicant's candidature without any rhyme and reason.

7. Counsel for the respondents submitted that the respondents are ready to show the video of the said trade test to the Tribunal but the same cannot be shown to the applicant and this Tribunal may observe the proceedings of the said trade test. Counsel further submitted that the contention of the applicant that his photograph had not been taken at the time when he was declared disqualified in the said trade test is not sustainable in view of the fact that they have annexed the attendance cum result sheet of driving – practical test for the said post as Annexure R-2 with the counter reply.

7.1 Counsel for the respondents produced before us a copy of the Order of the Hon'ble High Court in Writ Petition (Civil) No.368/2010 in the matter of ***Ravi Kumar Yadav v Commissioner of Police, Delhi*** in which vide judgment dated 18.02.2010, in a similar matter during the reverse driving test the petitioner was found unfit.

8. We are unable to accept the contentions of the learned counsel for the applicant as the plea of the applicant that his photograph was not taken at the time when he was declared disqualified is not sustainable in view of the fact that respondents have annexed attendance cum result sheet of driving – practical test for the said post held on 11.7.2013 as Annexure R-2 with the counter reply. Further contention of the applicant that this Tribunal may peruse the videography of the said trade test to ascertain the veracity of the decision of the respondents declaring the applicant as disqualified in the said test is also not sustainable in view of the aforesaid judgment of the Hon'ble Delhi High Court in the case of **Ravi Kumar Yadav** (supra). The Hon'ble High Court concluded as under:-

“This Court is not convinced with this plea made on behalf of the petitioner because I am of the view that even if the CD is called for, the CD can at best show a person sitting on driver's seat with steering in his hands and this cannot show whether a person has qualified the reverse driving test or not. The petitioner has been declared disqualified in the Trade Test-II by a competent Board of three senior officers of the respondent against whom there is no allegation of either bias or mala fide, presumably no such allegations could be made against them.

In the facts and circumstances of the case, this Court would not like to tinker with the selection process held by the respondent in selecting Constables (driver) for its Department.”

9. Further we also find that this issue of perusal of the videography of the trade test was also raised before this

Tribunal in OA No.1900/2011 in the matter of **Ravinder Kumar vs. Govt. of NCT of Delhi and others** decided on 3.2.2012 and this Tribunal by placing reliance of the aforesaid judgment of the Hon'ble Delhi High Court, dismissed the said OA with the following observations:-

“This Court is not convinced with this plea made on behalf of the petitioner because I am of the view that even if the CD is called for, the CD can at best show a person sitting on driver's seat with steering in his hands and this cannot show whether a person has qualified the reverse driving test or not. The petitioner has been declared disqualified in the Trade Test-II by a competent Board of three senior officers of the respondent against whom there is no allegation of either bias or mala fide, presumably no such allegations could be made against them. We are convinced that when there is no allegation of mala fide against any of the members constituting the selection board and when it is a case of selection jointly by three senior officers, the plea of the applicant that he was wrongly failed in the trade test cannot have any substance.”

11. We also find that applicant has not alleged any malafide against any of the members of the concerned selection board.
12. In view of the aforesaid judgment of the Hon'ble Delhi High Court and of this Tribunal (supra), when there is no allegation of mala fide against any of the members constituting the selection board and when it is a case of selection jointly by three senior officers, the plea of the applicant that he was wrongly declared as disqualified in the trade test cannot have any substance.

13. In the result, we do not find any merit in the present OA and the same is accordingly dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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