

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

O.A. No.3204 of 2013  
M.A. No.2435 of 2013

Orders reserved on : 28.08.2018.

Orders pronounced on : 06.09.2018

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

Shri Srikant, Age - 27 years  
S/o Sh. Kailash Chander  
R/o H.No. – 550  
VPO-Dichaoun Kalan  
New Delhi.  
Roll No. 806586  
Distt. – Mohindergarh

....Applicant  
(By Advocate : Mr. Rajesh Chauhan for Mr. Sachin Chauhan)

VERSUS

1. Govt. of NCTD through  
the Commissioner of Police  
Delhi Police  
Police Headquarters, I.P. Estate,  
M.S.O Building, New Delhi.
2. The Dy. Commissioner of Police  
Establishment  
Through Commissioner of Police  
Police Headquarters, I.P. Estate  
M.S.O. Building, New Delhi.

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

**O R D E R**

**Ms. Nita Chowdhury, Member (A):**

**M.A. No.2435 of 2013**

This MA has been filed by the applicant seeking condonation of delay in filing the OA 3204/2015. In the said MA, the applicant stated that he is challenging the

respondents' order dated 5.7.2012 and further seeking direction to the respondents to appoint him to the post of Constable (Driver) in Delhi Police and the OA is being filed on 9.9.2013 and admittedly there is about 63 days of delay in filing the OA and the delay occurred due to the fact that the applicant met the counsel in the last week of June 2013 and few documents, which required to be annexed with the OA, are in Hindi, which need to be translated in English as per the requirement of this Tribunal and the said delay has occurred due to these reasons which is neither intentional nor deliberate. Therefore, applicant prays that delay of 63 days in filing the OA may be condoned in the interest of justice.

2. Although pursuant to notices issued to the respondents, they have filed their counter affidavit to the OA but have not chosen to file any reply to the said MA.

3. However, in view of the Hon'ble Supreme Court judgment in the case of **D.C.S. Negi vs. Union of India and others**, in SLP (C) No.7956/2011 decided on 07.03.2011, wherein it has been held that the Administrative Tribunal is duty bound to first consider whether the application is within limitation, and further that the application can be admitted only if it is found to be within limitation or for any justified reason for extending the period of limitation. The relevant

portions of the judgment of the Hon'ble Supreme Court in the case of **D.S. Negi** read as under:-

"Before parting with the case, we consider it necessary to note that for quite some time, the Administrative Tribunals established under the Act have been entertaining and deciding the applications filed under section 19 of the Act in complete disregard of the mandate of Section 21, which reads as under:

"21. Limitation.-(1) A Tribunal shall not admit an application,- (a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub- section (1), where- (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court, the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub- section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub- section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

A reading of the plain language of the above reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clauses (a) and (b) of Section 21(1) or Section 21(2) or an order is passed in terms of sub-section (3) for entertaining the application after the prescribed period. Since Section 21(1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under Section 21(3).

In the present case, the Tribunal entertained and decided the application without even adverting to the issue of limitation. Learned counsel for the petitioner tried to explain this omission by pointing out that in the reply filed on behalf of the respondents, no such objection was raised but we have not felt impressed. In our view, the Tribunal cannot abdicates its duty to act in accordance with the statute under which it is established and the fact that an objection of limitation is not raised by the respondent/non applicant is not at all relevant.”

4. Although none of the parties have advanced their arguments on the issue of delay and latches. However, in view of the above observations of the Hon'ble Apex Court, we are, duty bound, first of all, to deal with the issue of limitation and shall proceed to examine the issue in the OA only after

deciding whether the OA is time barred or not and whether there is justification to condone the delay.

5. In the Delay Condonation Application, it is admitted by the applicant that there is a delay of 63 days in filing the OA and the same has been caused due to the fact, as stated by the applicant, that he met his counsel in June 2013 and certain Hindi documents were required to be translated in English and it is also an admitted fact that this is the third round of litigation preferred by the applicant as he has earlier filed OA Nos.93/2011 and 945/2012 and the issue involved in this case relates to cancellation of the candidature of the applicant for the post of Constable (Driver) in Delhi Police pursuance to advertisement issued in 2009 and the applicant is challenging the order dated 5.7.2012 in the present OA which was passed pursuant to the direction of this Tribunal in his earlier OA 945/2012. As such the grounds taken by the applicant for seeking condonation of delay are not sufficient and therefore, the present MA is liable to be dismissed on this ground alone. However, we feel that as there is no contest by the respondents to this MA and they have argued this matter on merit, we also proceed to decide this case on merit.

#### **O.A. No.3204 of 2013**

The applicant has filed this OA seeking the following reliefs:-

“(i) To set aside the impugned order dated 5.7.12 at and to further direct the respondents to appoint the applicant as constable (Driver) with all consequential benefits including seniority and promotion and pay and allowances.

Or/and

(ii) 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, as narrated by the applicant in the OA, are that applicant has applied for the post of Constable (Driver) in Delhi Police pursuant to advertisement issued in this regard in the year 2009. The applicant was subject to written test as well as trade test (Driving forward and driving reverse) and thereafter the applicant was subjected to interview where the applicant was also under an obligation to bring all the original certificates on which the applicant placed reliance during the present selection process including “Heavy Driving Licence mentioned in the application form along with two photocopies attested by a serving G.Os.”

2.1 The applicant was served with a Show Cause Notice dated 21.07.2010 whereby he was asked to show cause notice that why his candidature for the said post should not be cancelled on the allegation that he was not in possession of valid and genuine driving licence at the time of applying for the post in question and tried to seek employment in Delhi Police by adopting deceitful means and tactics despite clear

warning given to top of the application form that "furnishing of false information in the application form would be a disqualification and is likely to render the candidate unfit for the employment under Government.

2.2 The said show cause notice was issued by the respondents on the basis of report sought by the Office of DCP, Prov. & Logistics vide letter dated 13.4.2010 and the Assitt. RTO (Admn.), Mathura vide their letter dated 3.5.2010 and 7.6.2010 intimated that on the date of issue/endorsement of driving licence, no fee was deposited and without depositing fee, driving licence cannot be issued and the address given in the driving licence were also found incomplete/incorrect which shows that the driving licence was forged/bogus.

2.3 The applicant replied to the said show cause notice. On 9.12.2010, the applicant received a letter for personnel hearing on the show cause notice and accordingly he appeared in person on 23.12.2010 before DCP (Estt.) and according to him, he also submitted the report dated 8.11.10 (Annexure A-5).

2.4 The applicant preferred OA 93/2011 before this Tribunal and this Tribunal vide Order dated 18.5.2011 disposed of the said OA along with other connected OAs with the following observations:-

“9. It is not possible for us to go into the facts of all these cases and adjudicate upon the matter. It would be necessary, in the interest of justice, to remand the matter to the Respondents and direct them to issue fresh notices to show cause based on the facts of each case so that the Applicants may have the opportunity to reply to the notice and, after due inquiry, pass a speaking order based on cogent reasons. The notices to show cause and the orders passed thereon are quashed and set aside. We make it clear that we have not gone into the merit of any case and have not made any comments about the merits. The above directions should be complied with within four months from the date of receipt of a copy of this order. The selection of the candidates to the post of Constable (Driver) would abide by the decision taken by the Respondents pursuant to these directions. Needless to say the Applicants will have the liberty to challenge the fresh order passed by the Respondents, if their grievance still survives. There will be no orders as to costs.

2.5 Pursuant to the aforesaid directions of this Tribunal, the respondents issued a fresh show cause notice dated 27.6.2011 to the applicant to which the applicant has also given his reply, undated at Annexure A/6.

2.6 The respondents passed the order dated 20.9.2011 rejected the candidature of the applicant by an absolute non-speaking order and mechanical order, as the competent authority did not deal with the submissions and pleas of the applicant. Feeling aggrieved by the said show cause notice dated 27.6.2011 and order dated 20.9.2011, the applicant approached this Tribunal by filing OA No.945/2012 and this Tribunal by common Order dated 23.3.2012, disposed of the said OA of the applicant also with the following observations:-

5. At this in limine stage, we would not like to go into the merit of the issues or the various contentions raised

by the learned counsel. However, even a bare perusal of the impugned orders reveals a non-consideration of the submissions made by the candidates. While many of the defence pleas were not even recorded, a few even when recorded were not dealt with by the concerned authority as to why these did not merit acceptance. Resultantly, the concerned candidate remained virtually in the dark as to for what reasons his candidature was treated as cancelled. It is also noted that the department has not got any wiser even after the remand of the case by the Tribunal in the earlier batch OAs. Stereo typed identical orders have been passed in all the four cases before us. This is certainly not what was intended by the Tribunal while remanding the cases to the respondents.

6. Given the above factual gamut, we are of the view that at this stage no purpose would be served by issuing a notice to the respondents. What is required is another opportunity to the respondents for a conscious consideration of the various aspects of the matter before taking the decision of cancellation of candidature. To meet the ends of justice we find it appropriate to remand the matter to the respondents once again for passing fresh reasoned and speaking orders after duly taking into consideration the contentions made by the concerned applicants in their show cause replies, giving an opportunity for personal hearing and taking into account the facts as revealed in course of enquiry by them. This is to be done within a period of two months from the date of receipt of a copy of this order.

Resultantly, the OAs are disposed in terms of the aforesaid limited directions. The Registry is directed to serve dasti, copies of this order on the respondents no. 1 and 2 along with copies of the OAs.

Let a copy of this order be placed in the respective OAs.”

2.7 In pursuance of the aforesaid Order of this Tribunal, applicant made a representation to the respondents on 23.3.2012 (Annexure A-2) requesting that proper and detailed enquiry in respect of his driving licence be conducted with the concerned transport authority. Thereafter, the applicant was called for O.R. and the department passed the order dated

05.07.2012 (Annexure A/1) rejected the candidature of the applicant by an alleged absolute non-speaking order and mechanical order as the competent authority did not deal with the submissions and pleas of the applicant.

2.8 Feeling aggrieved by the aforesaid order dated 05.07.2012 (Annexure A-1), the applicant has filed the instant OA seeking the relief as quoted above.

3. Pursuant to notices issued to the respondents, they have filed their reply in which they have also stated the factual facts of the case and also stated that in compliance of the directions of this Tribunal passed in OA 945/2012 vide which this case was remanded back to the respondents for passing a fresh reasoned and speaking order after taking into consideration the contentions made by the applicant in his reply to the show cause notice, the applicant was called for personal hearing and he appeared before the concerned authority on 12.6.2012 and said that Driving Licence No.23983.MTR2002 is correct and the same was got issued directly from Mathura Transport Authority, Mathura, U.P. However, as per the verification report/letter No.2399/Licence Satyapan/2011 dated 17.1.2011 issued by ARTO (Admn.) Mathura, the Driving Licence No.23983/MTR/02 dated 28.06.2002 was issued in the name of some other person, i.e., Shri Bhagwan Singh S/o Sh. Samray Lal, R/o Mathura, for Motorcycle.

3.1 They further stated that since applicant was not in possession of a valid and genuine driving licence for driving heavy motor vehicles on the date of submission of application form and tried to seek employment in Delhi Police by adopting deceitful means and tactics which amounts to deliberate and willful misrepresentation of facts. Therefore, in view of the above discussion and on reconsideration of the entire material on record and relevant notification and the facts that the applicant was not in possession of a valid HTV driving licence on the date of submission of the application form and as such the decision of the respondents cancelling the candidature of the applicant for the post of Constable (Driver) in Delhi Police by the order dated 5.7.2012 is just, right and in accordance with law as the Hon'ble Supreme Court in Civil Appeal No.2588/2011 (Arising out of SLP(C) No.19246/2009 titled ***Mrs. Rubi (Chandra) Dutta vs. M/s United India Insurance Co. Ltd.***, held that "at the time of giving employment to a driver, the owner is required to be satisfied with regard to correctness and genuineness of the licence the candidate is holding.

4. The applicant has also filed his rejoinder affidavit reiterating the averments made in the OA and refuted the contentions of the respondents as raised by them in their counter affidavit and further tried to establish that his driving

licence issued by the Mathura licensing authority is genuine and correct by elaborately mentioning the averments.

5. Counsel for the applicant submitted that this is the third round of litigation and earlier OAs filed by the applicant were disposed of by remitting the matter back to the respondents to pass a reasoned and speaking order but again the respondents have passed a non-speaking order as no pleas and contentions raised by the applicant in his reply to the show cause notice have been dealt with by the respondents while passing the impugned order which is illegal, arbitrary, unjustified, unreasonable and is in violation of principles of natural justice.

5.1 Counsel for the applicant has drawn our attention of report dated 8.11.2010 (Annexure A/5) which was issued by the office of Divisional Assistant Transport Officer (Admn.), Mathura in which it is stated that :

In reference to your letter No.53311/Rectt. Cell (C-11)/PHQ dated 13.4.2010 and this office letter No.103/DL/Verification/10 dated 3.5.10 on the above cited subject. In this connection, it is intimated that earlier sent list at Sr. No.-61 & 70 marked Ankit Ashok Yadav and Srikant have verified their licences and attend this office personally in which Sh. Ashok Kumar Yadav s/o Sh. Balkishan Yadav, Licence No.- 15237/MTR/07 M/Cycle + L.M.V. (Pvt.) + End.H.T.V.+H.P.V. (PE) dated 23.12.08 to 22.12.2011 and ***Srikant S/o Sh. Kailash Chand Licence No- 23983/MTR/.02 M/Cycle + L.M.V. (Pvt.) + End. HTV+HPV (PE), 31/12/2006 to 30/12/2009 (Valid upto) and issued from this Office.***

(emphasis supplied)

5.2 Counsel for the applicant further submitted that once the driving licence of the applicant has been renewed by the same authority or renewed or endorsed by some other transport authority then as per law there is an estoppel on the issuing authority to state that originally the license was fake or forged. But the respondents without applying its mind on this important fact and without doing any enquiry cancelled the candidature of the applicant on the basis of report of Mathura/Agra Transport Authority.

5.3 Counsel further submitted that along with the reply to the show cause notice, the applicant has also annexed a report dated 3.3.2010 pertains to verification of 220 driving licence sought by the respondents from the Licensing Authority at Mathura (page 88 of the paperbook) in which the name of the applicant is mentioned at serial No.170 and they stated that the said details tally with the records. But the same have not been considered by the respondents while passing the impugned order.

5.4 Counsel further contented that the respondents have highlighted the reports dated 3.5.2010 and 7.6.2010 in the show cause notice but have not averred anything about 3.3.2010 report of the Mathura Licensing Authority which shows the malice on the part of the respondents.

6. Counsel for the respondents during the course of hearing reiterated the averments made by the respondents in their counter affidavit.

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

8. After giving thoughtful consideration to the rival contentions of the parties, we are unable to accept the contentions of the learned counsel for the applicant as the impugned order dated 5.7.2012 has been passed by the respondents pursuant to directions of this Tribunal in OA No. 945/2012 filed by the applicant and we have also perused the said impugned order. We find that the same is a reasoned and speaking order, as the verification report of ACP/Crime Branch was put up before this Tribunal and this Tribunal after perusal of the said Report, vide order dated 18.5.2011 passed in bunch of OAs, including in the OA filed by the applicant, directed the respondents to issue fresh show cause notice to enable him to file reply and then pass a speaking order. Thereafter respondents have passed order dated 20.9.2011 which was challenged by the applicant by filing OA 945/2012 and the said OA was disposed of with a direction to the respondents to consider the contentions made by the applicant in his reply to show cause notice and also give an opportunity of personal hearing and then pass a reasoned and speaking order which the respondents have done by

passing the order dated 5.7.2012 in which they have categorically stated that in compliance of order of this Tribunal dated 23.3.2012, the applicant was called for personal hearing and he appeared before the concerned authority on 12.6.2012 in which he said that D/L No.23983/MTR/2002 is correct and the same was got issued directly from Mathura Transport Authority, Mathura, U.P. However, ***as per verification report/letter no.2399/Licence Satyapan/2011 dated 17.1.2011 issued by ARTO (Admn.) Mathura, the Driving Licence No.23983/MTR/02 dated 28.6.2002 was issued in the name some other person, i.e., Shri Bhagwan Singh S/o Sh. Samray Lal, R/o Mahavan Mathura, for Motorcycle.*** Based on the said report dated 17.1.2011 held that applicant was not in possession of valid and genuine driving licence for driving heavy motor vehicles on the date of submission of Application Form and tried to seek employment in Delhi Police by adopting deceitful means and tactics, which amounts to deliberate and willful misrepresentation of facts and finally concluded that decision taken by the department for cancellation of candidature of the applicant to the post of Constable (Driver)-2009 in Delhi Police will hold good.

9. So far as reliance placed on the reports dated 8.11.2010 and 3.3.2010 are concerned, the said reports lost its sanctity in view of subsequent report dated 17.1.2011 issued by ARTO

(Admn.) Mathura in respect of applicant's driving licence number and the applicant has chosen not to make the said authority as party respondent in the instant OA.

10. So far as the plea of the applicant that driving licence of the applicant has been renewed by the same authority or renewed or endorsed by some other transport authority then as per law there is an estoppel on the issuing authority to state that originally the license was fake or forged is concerned, the Hon'ble Supreme Court of India held in **New India Assurance Company vs. Kamala Devi and others** (Civil Appeal No.2387 to 2389 of 2001) that the fake licence cannot get its forgery outfit stripped of merely on account of renewal. The relevant portion of the said judgment of the Apex Court reads as under:-

“As a point of law we have no manner of doubt that a fake licence cannot get its forgery outfit stripped off merely on account of some officer renewing the same with or without knowing it to be forged. Section 15 of the Act only empowers any licensing authority to renew a driving licence issued under the provisions of this Act with effect from the date of its expiry. No licensing authority has the power to renew a fake licence and, therefore, a renewal if at all made cannot transform a fake licence as genuine. Any counterfeit document showing that it contains a purported order of a statutory authority would ever remain counterfeit albeit the fact that other persons including some statutory authorities would have acted on the document unwittingly on the assumption that it is genuine.”

In view of the aforesaid observations of the Apex Court, this contention is also not acceptable in the eyes of law.

11. Further reference of reports dated 3.5.2010 and 7.6.2010 in the show cause notice as well as in the impugned order can be said to be a reference of factual position but the impugned order dated 5.7.2012 has been passed only on the basis of report dated 17.1.2011 (supra) and taken the decision to cancel the candidature of the applicant on the basis of said report.

12. It is relevant to mention here that some of the applicants in the bunch of OAs, including the earlier OA of the applicant, which were decided by this Tribunal vide Order dated 18.5.2011, have challenged the said order of this Tribunal dated 18.5.2011 and the Hon'ble High Court vide Order dated 18.11.2015 in the case of ***Vikram Singh vs. Commissioner of Police Delhi and Anr.*** (WP(C) No.10603/2015) and other connected cases, dismissed the said petitions with the observations which read as under:-

“3. Challenge in these writ petitions is to the order dated 18.05.2011 passed by the Central Administrative Tribunal (CAT).

4. The present writ petitions arise out of a common order. Pursuant to an advertisement inviting applications for filling up the post of Constable (Driver) in the year 2009, petitioners applied for the aforesaid post, they were called for an interview, declared successful and were appointed for the post of Constable (Driver). Subsequently, show cause notices were issued and their candidatures were cancelled by an order dated 10.11.2010 on the ground that the licenses produced were fake and not genuine. The OAs filed before the Tribunal were rejected.

5. We are informed that in a batch of writ petitions, by an order dated 04.03.2015 passed by the Division

Bench of this Court, identical matters were dismissed. The operating part of the order reads as under:

“Considering the fact that in a similar case this Court has already taken a view that the decision arrived at by the Tribunal is based on the enquiry committed by the Crime Branch of the Delhi Police and, therefore, we find no reason to interfere with the reasoning given by the learned Tribunal. The operative para of the said judgment is reproduced as under:-

‘ 6. The genuineness and authenticity of the driving licence is one of the indispensable condition for considering the petitioner’s appointment and for assessing his eligibility for the said post. Based on the inquiry report submitted by the Crime Branch, on which the learned Tribunal has placed reliance holding that the licence produced by the petitioner is fake and not genuine, we find no illegality, perversity, or any ground for interfering with the impugned order dated 24.09.2013 passed in O.A. No. 2920/2011 passed by the learned Central Administrative Tribunal, the present petition is dismissed.

It is not in dispute that in these cases their licenses were also found to be fake and ingenuine based on the inquiry report submitted by the Crime Branch and, therefore, the case of these petitioners is not different than that of the case decided by this Court in Rajnikant (supra). All these petitions are accordingly dismissed.”

6. We may notice that while dismissing the OAs, the Tribunal had issued the following directions :

“ It is not possible for us to go into the facts of all these cases and adjudicate upon the matter. It would be necessary, in the interest of justice, to remand the matter to the respondents and direct them to issue fresh notices to show cause based on the facts of each case so that the Applicants may have the opportunity to reply to the notice and, after due inquiry, pass a speaking order based on cogent reasons. The notices to

show cause and the orders passed thereon are quashed and set aside. We make it clear that we have not gone into the merit of any case and have not made any comments about the merits. The above directions should be complied with within four months from the date of receipt of a copy of this order. The selection of the candidates to the post of Constable (Driver) would abide by the decision taken by the Respondents pursuant to these directions. Needless to say the Applicants will have the liberty to challenge the fresh order passed by the Respondents, if their grievance still survives. There will no orders as to costs.”

7. Having regard to the fact that the identical matters already stand dismissed, we find no reason to take a different view in the matter. Accordingly, all writ petitions and pending applications are dismissed.”

13. In view of the above, for the forgoing reasons, we do not find any illegality in the order dated 5.7.2012 and therefore, the present OA being devoid of merit is dismissed. There shall be no order as to costs.

**(S.N. Terdal)**  
**Member (J)**

**(Nita Chowdhury)**  
**Member (A)**

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