

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 1203/2014

New Delhi this the 3rd day of January, 2019

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

Anil Kumar Upadhyay (Roll No. 624778),
Recruit SI (Ex.) in Delhi Police
Phase-11,
HC (Ex.) in Delhi Police,
PIS No.28981579, Aged about 37 years,
S/o Sh. Mohan Chander,
R/o Quarter No. 250, PC Ashok Vihar,
'H' Block, New Delhi-52.

.... Applicant

(By Advocate: Shri Anil Singal)

VERSUS

1. Govt. of NCT of Delhi through
Commissioner of Police,
Police Headquarters, IP Estate,
New Delhi.
2. Joint Commissioner of Police (HQ),
PHQ, IP Estate, New Delhi.
3. Sohan Raj Jha
PIS No. 16100201 (D/5195)
Through DCP (North-East Distt.)
PS GTB Nagar, Sahahdara, Delhi.
4. Harendra Singh,
PIS No. 280611686 (D/4042)
Through DCP (North- Distt.)
Civil Lines, Delhi.
5. Jitendra Kumar,
PIS No. 16100220 (D/4317)
Through DCP (North-East Distt.)
Chittarjan Park, New Delhi.
6. Kuldeep Singh
PIS No. 16100196 (D/5188)
Through DCP (North-West Distt.)
Ashok Vihar, Delhi.

7. Anil Kumar
PIS No. 16100033 (D/5300)
Through DCP (3rd Bn.DAP.)
Vikas Puri, New Delhi.
8. Satish Kumar
PIS No. 88010771 (D/2212)
Through DCP (South Distt.)
Hauz Khas, New Delhi.
9. Vijay Kumar (Candidature cancelled)
10. Vikas Kajla
PIS No. 16100114 (D/5112)
Through DCP (West Distt.)
Rajouri Garden, New Delhi.
11. Sudeep Phogat
PIS No. 16100186 (D/5180)
Through DCP (Special Branch)
Turak Maan Gate, Asaf Ali Road,
New Delhi.
12. Deepak Tomar (Candidature cancelled)
13. Sumit Kumar
PIS No. 16100040 (D/5025)
Through DCP (East Distt.)
Gaju Pur East, Delhi.
14. Ashish Kumar (Medically Unfit)
15. Ajay
PIS No. 28070843 (D/3909)
Through DCP (Outer Distt.)
Pitam Pura, New Delhi.
16. Firoz Khan (Candidature Cancelled)
17. Narendra Kumar
PIS No. 16100112 (D/5110)
Through DCP (Crime Branch)
PS Kamla Market, New Delhi.
18. Monu
PIS No.28080536 (D/5139)
Through DCP (North-East Distt.)
PS GTB Nagar, Sahahdara, Delhi.
19. Jasbir Singh
PIS No. 16100042 (D/5029)
Through DCP (West Distt.)
Rajouri Garden, New Delhi.

20. Amit Kumar
PIS No. 16100195 (D/5187)
Through DCP (North-West Distt.)
Ashok Vihar, Delhi.
21. Vikas Kuhar
PIS No. 16100085 (D/5077)
Through DCP (North-West Distt.)
Ashok Vihar, Delhi.
22. Badri Prasad
PIS No. 16100177 (D/5171)
Through DCP (New Delhi Distt.)
Parliament Street, New Delhi.
23. Rama Shankar (Resigned)
24. Parmendra
PIS No. 16100139 (D/3900)
Through DCP (Central Distt.)
Dariya Ganj, New Delhi.
25. Amit Verma
PIS No. 16110011 (D/2737)
Through DCP (North-East Distt.)
PS GTB Nagar, Sahahdara, Delhi.
26. Ranvijay Gautam
PIS No. 16100140 (D/4150)
Through DCP (South Distt.)
Hauz Khas, New Delhi.
27. Krishan
PIS No. 16100129 (D/5123)
Through DCP (Security)
Vinay Marg, New Delhi.
28. Nitin
PIS No. 16100107 (D/5104)
Through DCP (3rd Bn DAP)
Vikas Puri, New Delhi.
29. Santosh Kumar
PIS No. 16100144 (D/3903)
Through DCP (South Distt.)
Hauz Khas, New Delhi.
30. Ved Gaud
PIS No. 16100086 (D/5079)
Through DCP (North-East Distt.)
PS GTB Nagar, Sahahdara, Delhi.

31. Rajdeep Singh
PIS No. 16100091 (D/5082)
Through DCP (South Distt.)
Hauz Khas, New Delhi.
32. Ashish Rastogi
PIS No. 16100138 (D/5131)
Through DCP (PCR)
Model Town, New Delhi.
33. Jug Pravesh
PIS No. 16100206 (D/4284)
Through DCP (North Distt.)
Civil Line, Delhi.
34. Anil Kumar
PIS No. 16110018(D/2723)
(Selected outside).
35. Naveen Kumar
PIS No. 16100100 (D/5094)
Through DCP (South Distt.)
Hauz Khas, New Delhi.
36. Rohit Kumar
PIS No. 28109045 (D/5078)
Through DCP (Crime Branch)
PS Kamla Market, New Delhi.
37. Deepak
PIS No. 16100225(D/5211)
Through DCP (Outer Distt.)
Pitam Pura, New Delhi.
38. Sanjay Kumar
PIS No. 16100171(D/5164)
Through DCP (FRR0)
East Bloack, RK Puram, New Delhi.
39. Samrat Khatiyani
PIS No. 16100075 (D/5163)
Through DCP (North-East Distt.)
PS GTB Nagar, Sahahdara, Delhi.
40. Jitender Singh
PIS No. 16100154 (D/5150)
Through DCP (North-West Distt.)
Ashok Vihar, Delhi.
41. Arun Kumar
PIS No. 16100051 (D/5037)
Through DCP (IGI Airport)
IGI Airport, New Delhi.

42. Parmod Kumar (Candidature cancelled)
43. Amrender Kumar (Resigned)
44. Pradeep Kumar
PIS No. 16100150 (D/3910)
Through DCP (South Distt.)
Hauz Khas, New Delhi.
45. Mandi Singh
PIS No. 16100158 (D/4208)
Through DCP (South Distt.)
Hauz Khas, New Delhi.
46. Anjani Kumar
PIS No.28982064 (D/2211)
Through DCP (South Distt.)
Hauz Khas, New Delhi.
47. Sanjay Kumar
PIS No. 16100047 (D/5035)
Through DCP (East Distt.)
Gaju Pur East, Delhi.
48. Vijay Singh
PIS No. 28109836 (D/5009)
(Resigned).
49. Abhishek
PIS No. 16100078 (D/5068)
Through DCP (West Distt.)
Rajouri Garden, New Delhi.
50. Pradeep Drall
PIS No. 16100198 (D/5190)
Through DCP (Security)
Vinay Marg, New Delhi.
51. Yogesh Tanwar
PIS No. 16100080 (D/5070)
Through DCP (South East Distt.)
Chittarjan Park, New Delhi.
52. Harvinder (Medically Unfit)
53. Mahesh Kumar
PIS No. 16100066 (D/3056)
(Resigned).
54. Vineet Kumar
PIS No. 16100101 (D/5107)
Through DCP (Outer Distt.)
Pitam Pura, New Delhi.

55. Abhishek Dutt
PIS No. 16100191 (D/5184)
(Resigned)
56. Saurabh Arora
PIS No. 16100159 (D/5153)
Through DCP (Security)
Vinay Marg, New Delhi.
57. Sandeep
PIS No. 16100081 (D/5071)
Through DCP (P.T.C.)
Jharoda Kalan, New Delhi.
58. Neeraj Tomar
(Medically Unfit)
59. Vikas
PIS No. 16100243 (D/5220)
Through DCP (East Distt.)
Gaju Pur East Delhi.
60. Sonu Kumar
PIS No. 16100090 (D/4024)
Through DCP (South Distt.)
Hauz Khas, New Delhi.
61. Ajay Tomar
PIS No. 28071065 (D/5130)
Through DCP (East Distt.)
Gaju Pur East Delhi.
62. Danishbir Singh
PIS No. 16100067 (D/3857)
(Resigned)
63. Sonveer Singh
PIS No. 28092014 (D/4266)
(Resigned)
64. Naresh Kumar
PIS No. 28070130 (D/5076)
Through DCP (Outer Distt.)
Pitam Pura, New Delhi.
65. Dinesh Kumar
PIS No. 16100128 (D/5122)
Through DCP (West Distt.)
Rajouri Garden, New Delhi.
66. Varun Dev (Medically unfit)

67. Sagar Pratap
PIS No. 16100174 (D/5166)
(Resigned)
68. Sandeep
PIS No.28061693(D/3416)
Through DCP (North Distt.)
Civil Line, Delhi.
69. Uttam Kumar
PIS No. 16100143 (D/3902)
Through DCP (Central Distt.)
Dariya Ganj, New Delhi.
70. Parvesh
PIS No.28070099 (D/5062)
Through DCP (Outer Distt.)
Pitam Pura, New Delhi.
71. Anil Kumar
PIS No. 16100119 (D/3932)
Through DCP (South-West Distt.)
PS Vasant Vihar, New Delhi.
72. Sushhil Kumar
PIS No. 16100113 (D/5111)
Through DCP (South Distt.)
Hauz Khas, New Delhi.
73. Mukesh Kumar
PIS No.28104636 (D/3289)
Through DCP (South West Distt.)
PS Vasant Vihar, New Delhi.
74. Parveen Kumar
PIS No.28081718 (D/4269)
Through DCP (South West Distt.)
PS Vasant Vihar, New Delhi.
75. Ravi Verma
PIS No. 16100152 (D/5147)
(Resigned)
76. Narender Kumar
(Candidature Cancelled)
77. Varun Kumar
PIS No. 16100151 (D/3911)
Through DCP (North-East Distt.)
PS GTB Nagar, Sahahdara, Delhi.
78. Anshul Kumar
PIS No. 16100043 (D/5030)
Through DCP (East Distt.)

Gaju Pur East, Delhi.

79. Vijay Kumar
PIS No. 16100132 (D/5126)
Through DCP (Outer Distt.)
Pitam Pura, New Delhi.
 80. Dinesh (Candidature cancelled)
 81. Rama Kant
PIS No. 16100115 (D/3895)
Through DCP (North Distt.)
Civil Line, Delhi.
 82. Harish Bhandari
PIS No. 16100082 (D/5072)
(Resigned)
 83. Vikas
PIS No. 16100045 (D/5033)
Through DCP (South-West Distt.)
PS Vasant Vihar, New Delhi.
 84. Ashish (Candidature Cancelled)
 85. Shailendra
PIS No. 16100089 (D/4023)
Through DCP (South-East Distt.)
Chittarjan Park, New Delhi.
- ... Respondents

(By Advocate: Mr.Amit Yadv for Mr. Ankur Chhiber)

O R D E R (ORAL)

Hon'ble Mr. S.N.Terdal, Member (J):

We have heard Mr. Anil Singal, counsel for applicant and Mr. Amit Yadav for Mr. Ankur Chhiber, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:
 - "1. To direct the respondents to consider the applicant against "UR Category" 155 vacancies for the post of SI (Ex.) in the Recruitment-2009 (Phase-II) in which he has qualified and appoint him to the post of SI (ex.) with all the consequential benefits since he secured 161 marks more than the last "UR Category" candidate who was selected.

2. To quash and set aside the selection and appointment of respondent no. 3 to 85 to the post of SI (Ex.) in Delhi Police in Recruitment-2009 (Phase-II).
3. To award costs in favour of the applicant and pass any order or orders which this Hon'ble Tribunal may deem just & equitable in the facts & circumstances of the case."

3. The relevant facts of the case are that in response to the advertisement of 2009, the applicant applied for the post of SI (Ex.) under the "Departmental UR category". The applicant, having qualified in the physical endurance and measurement test, he appeared for written test and he qualified in the written test and appeared for the interview as well. The applicant had secured 161 marks, whereas the cut off of marks for the "Departmental UR category" was 163 marks and as he had secured less mark, he was declared disqualified in the final result. Some of the similarly situated candidates who had secured 159 and 156 marks had filed OAs and ultimately they were appointed in subsequent lists prepared in the "open/ UR category", by virtue of the judgment dated 22.08.2013 passed by the Hon'ble High Court of Delhi in Writ Petition (Civil) No. 5220/2012, titled **Rajender Singh Vs. Govt. of NCT of Delhi & Anr.** The applicant after the said judgment in Rajender Singh's case filed this OA contending that he should have been considered under "open/ UR category".

4. The counsel for the respondents brought to our notice another case of identically situated candidate as that of the applicant in the instant case passed by Hon'ble High Court of Delhi in Writ Petition (Civil) No. 10489/2015 on 18.05.2016, titled **Hariom, Head Constable Vs. The Commissioner of Police and Ors**, wherein the Hon'ble High Court held that the applicant in that case was a fence-sitters had approached the Court after a long delay and hence he is

not entitled to any relief. Relevant para 11 of the said judgment of the Hon'ble High Court is extracted below:-

"11. The petitioner relies on **State of Uttar Pradesh and Ors. Vs. Arvind Kumar Srivastava and Ors.** (2015) 1 SCC 347. Having examined the factual matrix, we observe that the petitioner had failed to act at the relevant time and had woken up after a long delay, whereas his two counterparts in the Delhi Police had approached the Court at an earlier point of time and after a long battle had succeeded in August, 2013. The petitioner should not be given the benefit of the judgment as he was a fence sitter. In the meantime, in 2012, another examination was held, and vacancies were filled. We have already observed that the petitioner cannot claim any right on the vacancies or new posts of Sub Inspectors (Exe.) created post the vacancies, included in the Phase II, 2009 examination. There are other pertinent reasons as to why the bar of limitation would be attracted. As per the list available at page No.138 of the paper book, there were at least fifteen other departmental candidates, who had secured marks between 155 and 163 i.e., marks of the last open category general candidate and the last selected candidate under 10% departmental quota. Two unsuccessful candidates had approached the Tribunal in 2010 and order dated 22 nd August, 2013 has been passed in their favour. Thirteen others including the petitioner would be entitled to a similar benefit in case the present writ petition is allowed. The respondents would have to redo and rework the entire exercise of finding out who would or would not have qualified from the open category. Law of limitation, sometimes perceived as technical and iniquitous, serves an important public purpose. It ensures certainty and negates ill effect when settled positions are sought to be altered. At the distinct point of time in 2014, about four years after the results of the 2009 examination were declared, the said exercise would create unforeseen complications and possibly litigation on issues like seniority. The open category candidates selected in the 2009 Examination have already joined. They are not impleaded. Question of seniority etc. with those selected in 2009 and 2012 would be an issue. This is not the case of an illiterate or denied person not aware of his rights, who for economic and social reasons possibly had limited resources or had hesitated in approaching courts/tribunals/authorities."

5. In view of the binding judgment of the Hon'ble High Court referred to above, para 11 of which is extracted above, this OA requires to be dismissed.

6. Accordingly, OA is dismissed. No order as to costs.

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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