

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2149/2015

Reserved on 12.03.2019
Pronounced on 15.03.2019

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

Ms. Bimla,
Aged about 22 years,
D/o Shri Mehar Chand,
R/o D-110, Near State Bank of Patiala,
VPO Karala, Delhi.

... Applicant

(By Advocate: Mr. M.K.Bhardwaj)

VERSUS

1. Delhi Police & Ors.
Through its Commissioner,
Delhi Police, PHQ, IP Estate,
New Delhi.

2. The Deputy Commissioner of Police,
Recruitment Cell,
PHQ, IP Estate, New Delhi-02.

... Respondents

(By Advocate Mrs. Sumedha Sharma)

ORDER

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

We have heard Mr.M.K.Bhardwaj, counsel for applicant and Mrs. Sumedha Sharma, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicants have prayed for the following reliefs:

- "a) To declare the action of the respondents in not appointing the applicant to the post of Constable (Executive) Female as illegal, arbitrary and unjustified and issue appropriate directions for appointing the applicant as Constable (Executive) Female.
- b) To declare the action of respondents in not considering the claim of applicant for appointment against 29 vacancies to the post of Constable (Executive) Female against 29 unfilled

vacancies of OBC category as communicated vide letter dated 07.05.2015 as illegal, arbitrary and unjustified and issue directions for considering the applicant for appointment against aforesaid 29 vacancies made part of recruitment of Women Constable (Executive) in Delhi Police 2013 with all consequential benefits including arrears of pay.

- c) To award costs of the proceedings and
- (d) To pass any other order/direction which this Hon'ble Tribunal deems fit and proper in favour of the applicant and against the respondents in the facts and circumstances of the case."

3. The relevant facts of the case are that in response to the advertisement for the post of Constable (Exe.) Female in Delhi Police for the year 2013, the applicant applied. She participated in the written examination successfully and thereafter she was called for medical examination, but, however, she was placed in the additional list of candidates and ultimately she was appointed, she has filed the instant OA praying for the above reliefs. The counsel for the applicant vehemently contended that her position in the additional waiting list was 10 and the candidature of 11 candidates who were in the select list was cancelled the applicant should have been appointed. In support of his contention, the counsel for the applicant relied on the judgment of Hon'ble Delhi High Court in the case of **Govt. of NCT of Delhi & Ors. Vs. Naresh Kumar** (W P (C) 323/2012) and he particularly emphasizes on paragraphs 15 and 16 which are extracted below:

"15. The Original Application was filed by the respondent on December 23, 2010. A perusal of the counter affidavit filed on March 21, 2011 to the Original Application would reveal that on said date 25 vacancies under OBC category were unfilled and were proposed to be taken forward in the next recruitment cycle. This pleading of the petitioners would further strengthen the fact that the vacancies had not been carry forwarded.

16. In the decisions reported as 1984 (Supp) SCC 687 Prem Prakash v. Union of India & Ors., 1996 (8) SCC 637 Pilla Sitaram Patrudu & Ors. Vs. Union of India & Ors., 1998 (5) SCC 246 Surender Narain Singh Vs. W.P.(C) No.323/2012 Page 8 of 8 State

of Bihar and 2008 (7) SCC 728 Balwant Singh Narwal & Ors. Vs. Union of India, the law declared was unless there was a valid reason not to fill up notified vacancies, all notified vacancies had to be filled up if suitable candidates were empanelled."

4. The counsel for the respondents equally vehemently submitted that in the case of Naresh Kumar (supra) the vacancies were not carried forward, whereas in the present case the candidature of 09 candidates under the relevant quota was cancelled due to non-joining and the applicant's position was at 10th in the additional list and vide memo dated 21.07.2016, the respondents decided not to go for any further additional list and thereafter the candidature of two more candidates was cancelled in the relevant category and as per the decision taken vide memo dated 21.07.2016 the unfilled vacancies were carried forward to the next recruitment year of 2016 and even the recruitment process of 2016 is completed and the selected candidates have joined the training as such in the circumstances the law laid down by the Hon'ble High Court referred to above is not applicable. The relevant portion of the averments made in the additional reply filed on 26.02.2019 is extracted below:

"2. That when the applicant submitted application/representation dated 11.01.2016 for her selection, the candidatures of 09 candidates under OBC category was cancelled due to non-joining and applicant's position was at 10th in the additional list in the merit. Therefore, the applicant was conveyed by DCP/Recruitment, NPL vide his memo. No. 8963/Rectt.Cell(Const)/(R-IV)/NPL dated 21.07.2016 that, there is no proposal to consider the candidates from the additional list for the post of Constable (Exe.)-Female in Delhi Police Exam., 2013 in future. Later on, candidature of 02 more candidates was cancelled under OBC category, hence, candidatures of 11 candidates was cancelled and applicant was informed accordingly in reply to her RTI application.

3. Since, there was no proposal to select any candidate from the additional list, such vacancies were carried forward to the next increment. Delhi Police conveyed the vacancies for the post of Constable (Exe.)-Female in the year 2016 which included the unfilled vacancies arising from cancellation of candidatures due to various reasons under all categories (UR/SC/ST/OBC) of above said recruitment/Exam., 2013 to the Staff Selection Commission for

filling up through direct recruitment. The SSC has already completed the recruitment process and candidates have joining training. At present, no vacancy of Examination 2013 is available.”

5. In view of the facts and circumstances narrated above and in view of the fact that no vacancy of 2013 recruitment examination was available and even subsequent recruitment of 2016 is over, in the circumstances, the relief prayed for by the applicant cannot be granted.

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

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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