

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2536/2016

Reserved on 05.02.2019
Pronounced on 18.02.2019

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

Purusharth Mishra,
S/o Sh. Rakeh Kumar Mishra
R/o 1/14/6 Hausila Nagar Colony,
Civil Lines, Faizabad (UP)-224001
Aged about 25 years
(candidate towards the post of
Sub Inspector in Delhi Police).

... Applicant

(By Advocate: Mr. Ajesh Luthra)

VERSUS

1. Commissioner of Police,
PHQ, MSO Building, I.P.Estate,
New Delhi.

2. Staff Selection Commission (Hd.Qrs.)
Through its Chairman,
Block No. 12, CGO Complex,
Lodi Road, Near Jawahar Lal Nehru
Stadium, New Delhi-110003.

... Respondents

(By Advocate: Mrs. Rashmi Chopra and Mr. Hanubhaskar)

ORDER

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

We have heard Mr. Ajesh Luthra, counsel for applicant and Mrs. Rashmi Chopra and Mr. Hanubhaskar, counsel for respondents, perused the pleadings and all the documents produced by the parties.

2. In this OA, the applicant has prayed for the following reliefs:

- "a. Hold and declare that the applicant is entitled for the post of Sub-Inspector in Delhi Police in pursuance to the 'Sub Inspector in Delhi Police, CAPFs and Assistant Sub-Inspector in CISF Examination-2015' conducted by Staff Selection Commission and

- b. Direct the respondents to further consider and appoint the applicant to the post of Sub-Inspector in Delhi Police
- c. Accord all consequential benefits.
- d. Award costs of the proceedings; and
- e. Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests of justice in favour of the applicant."

3. The relevant facts of the case are that the applicant applied in response to employment notification in the Employment News in the year 2015 for the posts of Sub-Inspector (Executive)- Male in Delhi Police and in many other para military organizations, like CISF etc. In the advertisement, as per serial no. 6 of Rule 7 of the said notification, if the candidates were to opt for recruitment as SI (Exe) in Delhi Police/Male then they must possess and also carry a valid driving license for Light Motor Vehicle (LMV) on the date fixed for Physical Endurance & Measurement Tests, otherwise they would not be allowed to undergo Physical Endurance and Standard Tests. The applicant obtained 341 marks in all the examinations. He successfully qualified in physical test and medical test and he was called for interview and document verification. At the time of document verification, it was revealed that the applicant was not having a valid driving license, as such on that ground, his candidature was rejected.

4. The counsel for the applicant vehemently and strenuously contended that the applicant was having driving license for motorcycle issued in 2010 and he was also having learner's license for LMV w.e.f. 18.11.2015 and that he got permanent driving license for LMV on 24.02.2016 and the results were declared on 16.03.2016. On these

Chronology of events, he is submitted that he should be treated to have had LMV license on the relevant date. He pointing out the contents of para 4(C) and 5 A and 5 B of the advertisement notification, and submitted that the respondents had fixed different cut off dates for complying with eligibility condition of OBC certificate and possession of LMV driving license, as such the respondents could relax the standards and accepts his candidature and appoint him as SI (Exe.) in Delhi Police. We have perused the said paragraphs of the advertisement. The submission and the reasoning of the counsel for the applicant does not hold water. The counsel for the applicant by amending this OA, challenged the amendment notification dated 13.03.2013 issued under Section 147 of the Delhi Police Act, 1978 by the Lt. Governor of National Capital Territory of Delhi. By the said amendment, the requirement of driving license was introduced for the first time in 2013. The counsel for the applicant challenged the constitutional validity of the said notification of 2013 on the ground that the requirement of Sections 148 (2) & (3) of the Delhi Police Act were not complied with by the respondents with respect to the placing of the said amendment notification on the table of the parliament. In support of his contention, he relied upon the judgment of the Hon'ble Supreme Court in the case of **Association of Management of Private Colleges Vs. All India Council for Technical Education and Ors** (Civil Appeal No. 1145 of 2014). When specifically asked by the Tribunal, the counsel for the applicant admitted that he has not taken any ground in the application regarding violation of the said Section 148 (2) and/or (3) of the Delhi Police Act, 1978. Moreover as rightly submitted by the learned counsel for the respondents that the said notification was issued way back in the year 2013. Thereafter

on the basis of the said notification recruitment were held in 2013, 2014 and 2015. The applicant has participated in the recruitment process.

5. The counsel for the respondents rightly contended that having accepted and participated in the recruitment process and after being unsuccessful he cannot challenge the said amended notification. The law laid down by the Hon'ble Supreme Court in the above stated case of **Association of Management of Private Colleges** (supra) is not applicable in the present case because the facts in that case and the facts in the present case are different, particularly in view of the fact that except saying that the amendment is bad in law, the applicant has not taken any grounds in his application. In the circumstances, it is not a fit case for going into the question of constitutional validity of the said amendment notification of 2013.

6. In view of the facts and circumstances elaborated above, and the analysis made above, we are of the opinion that the action of the respondents cannot be faulted.

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

(S.N.Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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