

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

O.A. No.3311 of 2016

This the 27th day of March, 2019

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

1. Vikas (GEN)
 Aged about 26 years
 S/o Shri Jagroop Singh
 R/o H.No.245, Gali No.2
 Roshan Vihar
 Karwal Nagar, Delhi – 110 094.
2. Rahul Sharma (GEN)
 Aged about 28 years
 S/o Shri Mukesh Chand Sharma
 R/o VPO-Isttoli
 Distt-Gautam Budh Nagar, UP.
3. Pawan Dabbas (GEN)
 Aged about 27 years
 S/o Shri Chand
 R/o H.No.156, Salina Wali Gali
 VPO – Pooth Khurd Delhi -110 039.
4. Tejender Kumar (GEN)
 Aged about 26 years
 S/o Rotesk Kumar Sharma
 R/o VPO-Bhatyana
 Distt – Hapur.
5. Neeraj Kumar (GEN)
 Age 27 years
 S/o Suresh Kumar
 R/o VPO, Manana
 Teh Samalkha
 Distt. Panipat, Haryana.
6. Juber Khan (OBC)
 Age 28 years
 S/o Deen Mohmmad
 R/o Vill – Padwana, PO-Mubarikpur
 Teh-Ramgarh, Distt –Alwar
 Rajasthan.

....Applicant

(None present)

VERSUS

1. The Commissioner of Police
Police Head Quarters
MSO Building, ITO
New Delhi – 110 002.
 2. The Dy. Commissioner of Police (Recruitment Cell)
Delhi, MSO Building, ITO
New Delhi – 110 002.
-Respondents
- (By Advocate : Ms. Asiya Khan for Ms. Rashmi Chopra)

O R D E R (Oral)**Ms. Nita Chowdhury, Member (A):**

Neither the applicants nor their counsel appeared. On 18.12.2018, a specific question was posed to the counsel for the applicants to distinguish this OA in view of the fact that innumerable OAs on similar matters have already been decided by coordinate Benches and by the Hon'ble High Court of Delhi in WP(C) No.2159/2015. He was given four weeks' time to comply with the said order. But now even after three months, no additional judgment has been filed. Hence, in view of the above circumstances, this matter is decided under Rule 15 of the CAT (Procedure) Rules, 1987 and accordingly, we heard learned counsel for the respondents.

2. By filing this OA, the applicants are seeking the following reliefs:-

- (i) To call for the records of the case;
- (ii) To direct the Respondents to consider the case of the applicants (as figuring in the additional list) for appointment to the post of Constable (Executive) Male in the UR and OBC category and appoint them as such, if otherwise found fit;

- (iii) To direct the respondents to award to the applicants, all consequential benefits flowing from the grant of relief(ii) above;
- (iv) grant the cost and expenses of the OA in favour of the applicant; and
- (v) To grant any other relief as deemed just and proper by this Hon'ble Tribunal.

3. We find that in this case prior to filing of this OA, a fresh advertisement has been published by the respondents on 26.1.2013 for filling up the remaining vacancies and the said advertisement has not been challenged by the applicants and the select list of the year 2011 in which the applicants names appeared would come to an end upon issuing of a second advertisement.

4. The Hon'ble Delhi High Court in Writ Petition (Civil) No.2159/2015 had specifically adjudicated the similar issues and contentions as raised in this OA and vide Order dated 8.11.2015 observed as under:-

“7. A division Bench of this Court in **Gaurav Kumar and Ors. v. Govt. of NCT of Delhi And Ors.**, W.P.(C) 2342/2013, while relying upon the decisions rendered by the Supreme Court of India, wherein it has been held that once the second advertisement has been published the candidates from the first advertisement cannot be included, held as under:

“9. Of the various contentions urged by the respondents, one was that once a selection process was completed and notwithstanding posts remaining vacant, if the next selection process commenced and was completed, the previous select list expires and a belated grievance pertaining to not being offered appointment cannot be entertained.

10. For record we may note that on facts the respondent pleaded that pertaining to Phase-2, advertisements were issued inviting applications to fill up 6032 vacancies on November 07, 2009.

11. The said defence projected by the respondents has been accepted by the Tribunal as per the impugned decision dated May 04, 2011, and we find that of the 11 applicants before the Tribunal, only one? the petitioner litigates further.

12. We concur with the view taken by the Tribunal which finds support from, if not more, two decisions of the Supreme Court. The first is reported as (2007) 5 SCC 572 *State of U.P. and Anr. v. Nidhi Khanna and Anr.* Nidhi Khanna was at serial No.1 of the wait list and had an issue of one post of Lecturer in Geography, for which she had applied being vacant. By the time she raised the grievance the next phase selection process had commenced and another merit list prepared. The Supreme Court held that once the second stage recruitment commences, the earlier panels lapse notwithstanding vacancies available pertaining to the year of empanelment of the previous list being unfilled. The second is the decision reported as (2010) 6 SCALE 126 *State of Orissa and Anr. v. Rajkishore Nanda* wherein it was held that once a selection process was over and the select list had expired, vacancies carry forwarded to the next year, no relief could be granted at a belated stage.

13. Accordingly, the writ petition is dismissed but without any order as to costs.”

8. Similar view has been expressed by the Division Bench of this Court in the case of **Parveen Kumar v. Govt. of NCT Of Delhi And Anr.**, W.P.(C) 477/2012.
9. We have carefully examined the judgment passed by the learned Tribunal. The Tribunal has examined the matter on merits and accepted the explanation rendered by the Department. The respondents have filed a detailed additional affidavit in this court setting out the details and the manner in which the vacancies were filled up. We may also note that as per Sub-point (iv) of Rule 9 of Delhi Police (Appointment & Recruitment) Rules, 1980:

“a panel shall be drawn up of selected candidates on the basis of existing and

anticipated vacancies. This panel shall be valid till the next recruitment is held.”

10. In this case, the Tribunal has rightly applied the law and rejected the O.A. filed by the petitioners. To appoint the petitioners or anybody else from the additional list prepared pursuant to the advertisement of the year 2011, which has not been challenged, would cause serious prejudice to those persons selected out of the advertisement published in the year 2013 and the vacancies are already carried forward in the advertisement for the successive year. Thus, in these circumstances, no relief can be granted to the petitioners herein. Consequently, the writ petition is dismissed.”

5. In view of the above decision of the Hon’ble Delhi High Court, we do not find any merit in the claim of the applicants and as such the present OA is dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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