

**Central Administrative Tribunal
Principal Bench**

OA No.3198/2013

New Delhi, this the 5th day of September, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Anish,
Recruit HC (Min.) of Delhi Police-2010
Roll No.447850,
Aged about 23 years,
S/o Shri Shamsher Singh
R/o VPO : Saidpur,
Tehsil : Kharkhoda,
Distt: Sonipat, Haryana.

...Applicant

(By Advocate : Shri Anil Singal)

Versus

1. Govt. of NCT of Delhi,
Through its Chief Secretary,
Delhi Secretariat,
IP Estate, New Delhi.
2. Lt.Governor of Delhi,
Raj Niwas, Delhi.
3. Commissioner of Police,
PHQ, I.P. Estate, New Delhi.

...Respondents

(By Advocate : Shri Amit Yadav)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant responded to a notification issued by the Delhi Police, for selection and appointment to the post of Head Constable in the year 2010, as an Unreserved Candidate (UR). In the written test conducted for that purpose, he secured 92 marks. The number of posts available for UR was 230. Candidates who secured marks upto 93 were selected. As many as 25 candidates secured 92 marks and all of them were arranged in the order of merit, depending upon the date of birth. Five of the twenty five candidates from the top were also selected.

2. The grievance of the applicant is that though there existed as many as 22 vacancies on account of the non joining of the selected candidates, the respondents did not maintain the reserve list, nor did they fill the vacancies with the persons otherwise qualified. This OA is filed with a prayer to direct the respondents to fill all the 230 UR vacancies, for the recruitment year 2010, from the merit list, and in particular, from those who

secured 92 marks and to consider the case of the applicant for appointment.

3. Respondents filed counter affidavit opposing the OA. It is stated that though 230 candidates were selected under the UR category, 22 did not join, in many cases the verification was in progress. It is also stated that they did not maintain any reserve list and on account of the passage of time, it is not possible to fill the vacancies with the candidates, who took part in the selection process of the year 2010.

4. We heard Shri Anil Singal, learned counsel for applicant and Shri Amit Yadav, learned counsel for respondents.

5. It is no doubt true that the DOP&T has also issued an Office Memorandum, directing that the reserve list must be maintained, wherever the selection process is undertaken. The Hon'ble High Court of Delhi has also emphasised this in its various judgments such as ***Union of India Vs. Shrey Bajaj and Another*** WP(C) No.11739/2016 dated 16.12.2016 and ***Govt. Of NCT of Delhi & Ors. Vs. Naresh Kumar*** WP(C) No.323/2012

dated 14.08.2013. The fact, however, remains that for the post in question, the respondents did not maintain the reserve list.

6. It is brought to our notice that in the ultimate analysis, 19 candidates did not join in the UR category and out of them, 18 vacancies were sent to the Headquarters for being filled in subsequent recruitments. One vacancy was reserved through an interim order passed by this Tribunal in this OA. Had the applicant been the immediate candidate after the last selected and appointed candidate, we would have considered the feasibility of issuing directions to the respondents, to appoint him. The record discloses that he is at Sl. No.12 in the list of the remaining candidates.

7. One important aspect that needs to be taken into account is that a candidate by name Shri Vikash who figured at Sl. No.3 in the list of candidates who secured 92 marks, filed OA No.1839/2013, before this Tribunal and that was dismissed on 28.02.2014. As of now, only one vacancy is available. We find it difficult to grant relief to the applicant who is far below Shri Vikash. Even if a direction is given to fill the existing vacancy, the

applicant does not stand a chance. The list has to be operated, in accordance with merit. The entire exercise would become futile, if one takes into account the dismissal of the OA filed by Shri Vikash or the fact that the applicant is at Sl. No.12 in the list.

8. Therefore, the OA is dismissed. There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

‘rk’