

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

**O.A No. 3917/2014
with
O.A No. 3918/2014
O.A No. 4483/2014 and
O.A No. 163/2015**

This the 20th day of September, 2019

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

(1) O.A No. 3917/2014 :

Naeem Ali, Age 24 years,
S/o. Mohabbat Ali,
Vill-Kalyan Pur, Post-Budhana,
Muzaffar Nagar (Uttar Pradesh)
(DOB : 21.06.1990)
(Appointed to the post of Sub-Inspector (Exe.)
in Delhi Police). ...Applicant

(By Advocate : Mr. Ajesh Luthra)

Versus

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

2. The Deputy Commissioner of Police,
(Recruitment Cell),
New Police Lines, Delhi.

3. The Deputy Commissioner of Police,
(Headquarters)
PHQ, IP Estate, New Delhi.

4. The Deputy Commissioner of Police,
(North Distt.) Delhi Police,
Civil Lines, Near Vidhan Sabha,
Delhi.

5. Staff Selection Commission,
(Headquarters)
Through its Chairman,
Block No. 12, CGO Complex,
Lodhi Road, New Delhi-3.Respondents

(By Advocate : Mr. Amit Anand for Delhi Police, Mr. S. M. Arif with Ms. Parveen Shabnam for R-5)

(2) O.A No. 3918/2014 :

Devender Singh Chahar, Age 24 years,
S/o. Radhey Shyam Chahar,
R/o. 5C/1A/3D/1,
B. K. Puram, Kedar Nagar,
Shahganj, Agra, U.P.
(DOB : 09.02.1990)
(Appointed to the post of Sub-Inspector (Exe.)
in Delhi Police).Applicant

(By Advocate : Mr. Ajesh Luthra)

Versus

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

2. The Deputy Commissioner of Police,
(Recruitment Cell),
New Police Lines, Delhi.

3. The Deputy Commissioner of Police,
(Headquarters)
PHQ, IP Estate, New Delhi.

4. The Deputy Commissioner of Police,
(North Distt.) Delhi Police,
Civil Lines, Near Vidhan Sabha, Delhi.

5. Staff Selection Commission (Headquarters)
Through its Chairman,
Block No. 12, CGO Complex,
Lodhi Road, New Delhi-3.Respondents

(By Advocate : Mr. Amit Anand for Delhi Police, Ms. Asiya for Ms. Rashmi Chopra and Mr. S. M. Arif with Ms. Parveen Shabnam for R-5)

(3) O.A No. 4483/2014 :

Devender Khokhar, (DOB : 01.02.1989)
 S/o. Satbir Singh Khokhar,
 R/o. Quarter No. 21 A-4 Type-III,
 Railway Colony, Punjabi Bagh,
 New Delhi-110 026.

(Candidate to the post of Sub-Inspector (Exe.) in Delhi Police). ...Applicant

(By Advocate : Mr. Ajesh Luthra)

Versus

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

2. The Deputy Commissioner of Police,
 (Recruitment Cell),
 New Police Lines, Delhi.

3. Staff Selection Commission,
 (Headquarters)
 Through its Chairman,
 Block No. 12, CGO Complex,
 Lodhi Road, New Delhi-3.Respondents

(By Advocate : Mr. Amit Anand for Delhi Police and Mr. S. M. Arif with Ms. Parveen Shabnam for R-3)

(4) O.A No. 163/2015

Tarun Kumar Sharma,
 S/o. Shri I. D. Sharma,
 R/o. H. No. 802, Sector-46,
 Faridabad-121 010
 Age 26 years)

(Candidate to the post of Sub-Inspector (Exe.) in Delhi Police). ...Applicant

(By Advocate : Mr. Ajesh Luthra)

Versus

1. Commissioner of Police,

PHQ, MSO Building,
IP Estate, New Delhi.

2. The Deputy Commissioner of Police,
(Recruitment Cell),
New Police Lines, Delhi.

3. Staff Selection Commission,
(Headquarters)
Through its Chairman,
Block No. 12, CGO Complex,
Lodhi Road, New Delhi-3.Respondents

(By Advocate : Mr. Amit Anand and Mr. Vijay Pandita for Delhi Police and Mr. S. M. Arif with Ms. Parveen Shabnam and Mr. Gyanendra Singh for respondents).

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The Staff Selection Commission (SSC) issued a notification dated 09.06.2012 inviting applications for selection and appointment of candidates for the post of Sub-Inspector (Executives), Delhi Police. The written test was conducted and it was followed by interview. The applicants in these four O.As and various others applied and took part in the examination. The selection was concluded with the declaration of final result on 01.03.2013. The combined marks in the written test and interview obtained by the last selected candidate were 295.15. The applicants in these four O.As secured the marks, 296.5, 296, 296.75 and 296 respectively. The applicants in the O.A Nos. 3917/2014 and 3918/2014

were, in fact, issued offers of appointment dated 05.08.2014 with effect from 01.08.2014 and they have joined the training.

2. O.A No. 917/2013 and batch was filed before this Tribunal challenging the selection of candidates for the post of Sub-Inspectors in that batch. The plea raised therein was that, during the process of selection, the respondents have changed relevant rule, and provided for minimum marks in the interview, and thereby candidates who were otherwise meritorious were denied selection. The batch of O.As was allowed on 10.10.2013 and the results published by the SSC were set aside. The respondents were directed that the results shall be declared afresh, without insisting on the securing of minimum marks in the interview.

3. In the results published in compliance with the direction issued by this Tribunal in its order in O.A No. 917/2013, it emerged that the minimum marks obtained by the last candidate under the unreserved category is 300.75 (earlier it was mentioned as 297.50) and 301.50 for OBC. The applicants in all these O.As are unreserved candidates. The exercise undertaken by the SSC resulted in selection of 12 candidates, who were earlier omitted, and displacement of equal number which included four

applicants herein. These O.As are filed challenging the order dated 25.08.2014, through which the results of the applicants in the earlier round, were revised and they were kept outside the purview of the selection. They also prayed for issuance of orders of appointment to them.

4. Respondents filed counter affidavit opposing the O.A. It is stated that though the applicants herein were within the range of selection, the revised selection, undertaken in compliance with the direction issued by this Tribunal in O.A No. 917/2013, has resulted in their exclusion. An additional affidavit was filed in compliance with the direction issued by this Tribunal. It is stated that there are quite large number of candidates between the applicants on the one hand and the last selected candidate in the UR category on the other. It is also mentioned that the left over vacancies for the recruitment year 2012 were carried forward to the subsequent years and they have all been filled.

5. We heard Mr. Ajesh Luthra, learned counsel for applicants, Mr. Amit Anand for respondents and Mr. S. M. Arif for respondent no. 5.

6. It is not in dispute that the applicants were within the range of selection, on the basis of the results published

on 01.03.2013. It is rather a coincidence that the applicants in O.A No.3917/2014 and O.A No. 3918/2014 were issued orders of appointment and by the time orders were issued to the applicants in the other two O.As, this Tribunal has set aside the entire selection through its order in O.A No. 917/2013 dated 10.10.2013. The basis for setting aside the selection was, the alteration of the criteria in the selection process. The respondents have stipulated the minimum marks for the interview after the commencement of the process. The Tribunal found fault with the same and directed that the condition cannot be stipulated half way through. It is natural, that on account of stipulation of the minimum marks, some of the candidates have become disqualified. Once the minimum is taken away, the combined marks obtained by such candidates are required to be taken into account. In the process, 12 candidates who were excluded earlier, were selected and equal number of candidates were omitted from selection. That included the applicants herein.

7. Once the applicants did not secure the marks equal to or more than the last selected candidate, they do not have any right to insist on being selected.

8. Much argument is advanced to the effect that large numbers of vacancies were available and had the

respondents maintained the wait list, there would have been opportunities for the applicants to be selected and appointed. It is no doubt true that such a process is advisable and there are indications from the memoranda issued by the DoP&T itself as well as the observations of the Hon'ble Supreme Court in various judgments, to that effect. However, it needs to be noted that the wait list, even where it is maintained would be in respect of 5 to 10 % of the vacancies. Had such a list been maintained in the instant case, the applicants would not have figured therein, the reason being that the applicants figured at Sl. No. 39, 40, 42 and 44 in the list of candidates, after the last selected candidate.

9. In the additional counter affidavit, it is stated that the left over vacancies for the year 2012 were carried forward to subsequent years. The relevant paragraph reads as under :-

“Note : The unfilled vacancies of Exam-2012 which occurred due to cancellation of candidatures etc. on one reason or the other, were adjusted and carried forward to the next year/exam recruitment vacancies from time to time and conveyed to SSC for direct recruitment for year/Exam-2015, 2016 and 2017 on 09.01.2015, 29.12.2015 and 27.01.2017 respectively. The final result of Exam-2015 & 2016 have already been declared by the SSC; and process of Exam-2017 is at final stage (pending for medical examination) with the SSC and the final result will be declared by the SSC shortly. Presently, there is only one vacancy of SI(Exe.)/Male in Delhi Police Exam, 2012 (in respect of candidate Jitender Kumar Sharma, Roll No. 2405000154 of UR category, whose candidature was cancelled only on 15.06.2018), is available with the Delhi Police.”

In that view of the matter, we find it difficult to accept the plea of the applicants.

10. One fact, which however stares at us, as regards the applicants in O.A No. 3917/2014 and 3918/2014 is that, they were not only issued orders of appointment, but also have joined the training. In the O.As filed by them, a detailed interim order was passed directing that their training be continued. Though, the direction was only with regard to continuation of training, the respondents have chosen to continue them in the regular service also. That did not of course, result in the denial of appointment to the otherwise eligible candidates.

11. We are of the view that, it is not at all in the interests of administration to discontinue the applicants in the two O.As from service at this length of time. Unfortunately, same is not the case with the applicants in other two O.As. They were not issued orders of appointment. They figure mostly at the bottom of the wait list, if one were to have been maintained. Added to that, the relief cannot be restricted to the applicants therein. There are nearly 40 candidates above them. The selection of a candidate far below in the list by excluding the other

meritorious candidate, would not at all be in accordance with law.

12. Therefore, we dispose of the O.A No. 3917/2014 and O.A No. 3918/2014 directing the respondents to continue the applicants therein in service on the basis of the orders of appointment issued to them. O.A No. 4483/2014 and O.A No. 163/2015 are dismissed.

There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/Mbt/