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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. NO. 397/2003

NEW DELHI THIS 22nd DAY OF MARCH 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A. SINGH, MEMBER (A)

1. Jeetandra Kumar,
2. Ashok Kumar,
3. Parveen Kumar,
4. Manoj Kumar,
5. Som Dutt Sharma.

All C/o Mr. Ravinder Sharma,
House No.5829/2, Jawahar Nagar,
Delhi - 110 07

.....Applicants

(By Shri S K Sharma, Advocate)

VERSUS

1. Govt. of NCT of Delhi
through Commissioner of Police,
Police Headquarters,
ITO, New Delhi - 110 002
2. Special Commissioner of Police (Admn)
Police Headquarters,
ITO , New Delhi 110 002
3. joint Commissioner of Poice,
Police Head Quarters,
ITO, New Delhi - 110 002

.....Respondents

(By Ms Renu George, Advocate)

O R D E R

BY HON'BLE SHRI S. A. SINGH, MEMBER (A)

The Respondent No. 1 placed an advertisement, in daily leading Newspapers and Employment News, for recruitment of 2356 Constable (Executive) in Delhi Police, as per following breakup:

1156 General category

618 OBC Category.

343 SC Category

242 ST Category



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(with 10% vacancies reserved for Ex-servicemen in the respective categories.)

2. The four applicants were called for physical endurance test and physical measurement in May 2002. They were found qualified and took the written test on 23.6.2002. The result of the written test were declared on 23rd July 2002 and the applicants were declared qualified for interview, which was conducted in August 2002. The result of the interview was declared on 5.12.2002 wherein 1156 (General-1156, OBC-618, SC-343, ST-242 including 188 Ex. Servicemen) candidates were declared qualified for medical examination. However, the names of the applicants did not appear in this list.

3. The applicants represented their case to respondent No. 2 on 25.12.2002 as it was their apprehension that though they had qualified the physical endurance test and also had been called for interview, their names were not included in the list of successful candidates because they belonged to the category of OBC (JAT) from UP whereas OBC (JAT) from Delhi or Rajasthan were considered for appointment. They prayed that the merit list of the written test and interview should be notified for purposes of transparency. As they failed to receive any reply/answer to their representation the applicant sent a reminder on 6.1.2000. Thereafter the applicants filed this OA and have sought relief from this Tribunal for directing respondents to publish the merit list of all candidates that have been declared qualified in medical examination/ interview and to withhold the medical examination/appointments until the merit list is notified and

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made available to public. In addition, they prayed that appointment of the successful and eligible candidates be made strictly on merits, after giving due weightage to the respective applicants for relaxation of age and or marks as per the recruitment rules and procedures, and direct the respondents that all the appointments be subject to outcome of the present O.A.

4. Respondents in their counter have agreed that applicants had applied against the advertisement for recruitment of Constable (Exe) in Delhi Police against the category mentioned against their names as under:

S No.	Name	Roll No. (for written test)	Date of Birth	Category (as per App. form)
1.	Jitender	443749	1.3.1977	Gen.(Sportsman)
2.	Ashok Kumar	443715	9.1.1980	Gen.(Sportsman)
3.	Parveen Kumar	445335	1.1.1983	Genl.
4.	Manoj Kumar	423968	16.1.1979	Gen. (ward of Delhi Police personnel) Genl.
5.	Somdutt Sharma	418666	5.7.1981	Genl.

5. They were considered for appointment under General category . Though they successfully reached the stage of interview and were accordingly interviewed , they failed to make it to the final select list and thus were not called for completing other formalities.

6. With regard to the representation of the applicants, the respondents pointed out that they had received a representation from 20 candidates which was examined. As the applicants had desired that all the correspondence should be made through their Advocate a letter was sent to Shusheel Sharma on 6.1.2000 for apprising the applicants the position

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of their candidature. However, none of the candidates turned up. As far as the question of merit list is concerned it is available with the Centre for Policy Research, Dharma Marg, Chankaya Puri, New Delhi who handled the work of recruitment of Constable (Executive) in Delhi Police -2002.

7. As directed, on 22.9.2003, by the Tribunal respondents have placed the breakup of marks secured by each applicant and the cut off marks for selection against each category of applicants by an affidavit dated 30.10.2003.

The marks secured by applicants are as under:

Name of applicant	Marks	Interview marks	Total
1. Sh. Jitender Kumar Roll No. 443749	48	00	48
2. Ashok Kumar Roll No. 443715	46	10	56
3. Praveen Kumar Roll No. 445335	48	08	56
4. Manoj Kumar Roll No. 423968	44	09	53
5. Somdutt Sharma Roll No. 418666	42	08	50

8. The cut off marks for various categories was placed before the Tribunal is as under:-

S No.	Category	Cut off marks	Cut of age selection
1.	General (Open merit)	57	Upto 7.2.82
2.	OBC	53	upto 1.1.84
3.	SC	51	upto 22.8.79
4.	ST	55	upto 2.2.81

9. It is the contention of the respondents that applicant No. 3, 4 and 5 have been treated as General Candidates and were not selected as the total marks secured by them were below the cut off marks for general candidates.

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Applicant No.1, was not interviewed as his candidature was rejected on the grounds of overage as a general category candidate. Applicant No. 2 was considered for appointment as a sportsperson, but his total marks were below the cut off for general category after addition of bonus marks.

10. Applicant No. 3 and 5 did not press their case, as the marks earned by them were as placed on record by the respondents were below cut off for selection.

11. Applicant No. 1 states that the respondents had erred in rejecting his application on the basis of overage as he was an outstanding Sportsman and was entitled for age relaxation. He has a number of merit certificates in various fields which includes among other certificates of merits for representing State of Delhi in Kabaddi securing first position, which had been issued by School Games Federation of India and other certificate of merit issued by the Shooting Ball Federation of India towards his participation in National Shooting Ball Championship. As an outstanding sportsman he was entitled for age relaxation, as per rules, and as such he was eligible for interview and consideration for selection.

12. Similarly, it was the contention of applicant No. 2 that he is an outstanding sportsperson and was entitled for two additional marks, as per rules, which would have raised his marks above the cut off of 57, as such he should have been considered selected. Applicant No. 4 based his case on entitlement of five bonus marks being a Graduate. If these marks are taken into consideration he will also be above the cut of marks for general category and thus be eligible for selection.



13. As the breakup of the marks, placed on record by the respondents, did not clearly indicate the bonus marks, the respondents were directed to place on record the breakup of the marks secured by the candidates, including bonus marks. The respondents were also asked to place on record the rules for assessing the eligibility of persons for consideration as sportsperson of distinction. This information was placed on record by the respondents through an additional affidavit dated 4.2.2004. The position of the marks given in the affidavits of 30.10.2003 and 4.2.2004 is as under:-

Name and Roll No.	Interview marks (30.10.03)	Interview marks (4.2.2004)	Ht.	Edn.	NCC	Sports	Total
Jitendar Kumar 443749	00	7	5	-	-	-	12
Ashok Kumar 443715	10	09	-	-	-	01	10
Parveen Kumar 445335	08	08	-	-	-	-	08
Manoj Kumar 423968	09	04	-	05	-	-	09
Somdutt Sharma 418666	08	08	-	-	-	-	08

From the scrutiny of above details it is apparent that in the affidavit filed on 30.10.2003 interview marks included bonus marks but the breakup was not indicated and under the heading of interview marks this fact was not reflected. The only discrepancy between the two affidavits is in the case of applicant No. 1 where interview marks have been shown as zero in the affidavit of 30.10.2003, whereas they are shown as 12, in the affidavit of 04.02.2004.

14. The applicant in their rejoinder to the additional affidavit dated 4.2.2004 pleaded that both affidavits were contradictory, even though signed by the same deponent.





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This proved malafide and amounted to perjury because false affidavits had been filed to mislead the Tribunal. It was their case that in the supplementary affidavits dated 30.10.2003 applicant No. 1 was allotted zero marks in the interview whereas in the subsequent affidavit dated 4.2.2004 it was revealed by the deponents that he had been given seven marks and five bonus marks towards height. However, it is clear from the records that he has not been given five marks for educational qualification and two marks for sports. If these are added then his marks will total to 67, above the cut off marks of 57 for selection. Similarly, information in respect of applicants No. 2 and 4 was contradictory as the marks shown for interview differed in the two affidavits.

15. Applicant No. 3 and 5 who had foregone their claim based on information placed on record by affidavit dated 30.10.2003 were now resurrecting their claim and praying that the Tribunal call for their records as well, in the interest of justice.

16. The plea of the respondents is that as per para 3(a) of SO No. 212/2002 age is relaxable upto 26 years for sportsperson of distinction i.e. who have represented the state or country, at national or international level and who have represented University in a recognised University Tournament. In the case of applicant No.1 i.e. Jitendar Kumar the sports certificates submitted by the applicant was considered by the interview board and the same were not found in accordance with Recruitment Rules and Form No. 2 of Appendix -III of Govt of India/Department of Personnel and Administrative reforms OM No. 14015/1/76-Estt (D) dated 4.8.1980 and as amended by the DoPT OM No.





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15012/3/84-Estt(D) dated 12.11.87. Accordingly applicant No. 1 was not considered to be a sportsperson of distinction but a non sportsperson general candidate. Thus, he was overage for general candidate as such was declared disqualified on this ground.


17. The respondents in their additional affidavit clarified that 15 marks were allotted for interview and 14 bonus marks for various categories as under:

1. 5 marks for Graduation.
2. 5 marks for height (who is measured 178 cms or above).
3. 1 & 2 marks for State or National Sports certificate respectively.
4. 1 & 2 marks for NCC Certificate B & C respectively.

NB The marks had been awarded for the highest level of attainment in the particular field.

The bonus marks were added to the interview marks after scrutiny of certificates but before release of the result. This method has also been followed in the case of applicants. However, applicant No.1 was disqualified for the interview on the ground of over age once his claim for sportsperson of distinction was rejected. Accordingly, marks obtained in the interview were reduced to zero.

18. We have looked into details of the selection process proceedings in respect of all the applicants and their application forms. We have scrutinised the details



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of marks allotted by the Selection Committee and as shown in the two affidavits dated 30.10.2003 and 4.2.2004 and also compared with the original records.

19. We find that there is no contradiction or discrepancy between the information placed on record in aforesaid affidavits except in the case of applicant No.1 Jitender Kumar. Scrutiny of the original records reveals that though applicant No. 1 had been interviewed on the presumption that he was a sportsperson of distinction and also awarded interview marks shown in the subsequent affidavit dated 4.2.2004 they were reduced to zero on scrutiny. The respondents pointed out that the interview board did not find the applicant 1 to be a sports person of distinction. Thus, he was disqualified on grounds of overage and the interview marks reduced to zero.

20. With regard to the other applicants we find no discrepancy, as claimed by the applicants, in their rejoinder to the affidavit dated 4.2.2004 and as such the result is in order. We, also, find that there has been no deliberate attempt to mislead the Tribunal. There is, however, a discrepancy between the two affidavits in the case of applicant No. 1. The respondents should have taken due care, in their affidavits, in explaining the aforesaid difference.

21. From the above it clear that candidature of the applicants was considered for selection as per rules. Applicants No. 2,3,4 and 5 were rejected as they scored below the cut off marks for selection even after addition of bonus marks as per their eligibility. In the case of Applicant No. 1 selection was set aside on the ground

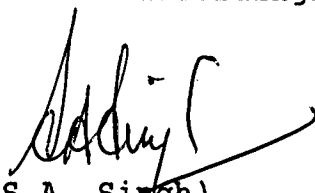


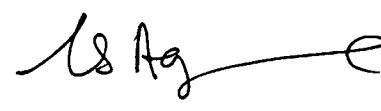
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that he was over age for general candidate after his claim of sports person of distinction was not found to be valid as per rules placed on record by the respondents. We find that the claim of the applicant No.1 is not supported by the rules, as such his rejection as a sportsperson cannot be faulted.

22. In view of the above we find no merit in the OA and accordingly OA fails and is dismissed. No costs.


(S.A. Singh)
Member (A)


(V S Aggarwal)
Chairman

Patwal/