
(2013) 08 DEL CK 0265

In the Delhi High Court

Case No : Writ Petition (C) 4862 of 2012

Dhanendra Kumar Premi

APPELLANT

Vs

Commissioner of Police and Others

RESPONDENT

Date of Decision : 13-08-2013

Acts Referred:

Citation : (2013) 08 DEL CK 0265

Hon'ble Judges : V. Kameswar Rao, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : Arun Bhardwaj, for the Appellant; Anjum Javed, for the Respondent

Final Decision : Dismissed

Judgement

V. Kameswar Rao, J.—The petitioner has filed the present petition challenging the order dated June 01, 2012 in Original Application No. 3747/2011 of the Central Administrative Tribunal (the Tribunal), whereby the Original Application was dismissed. The petitioner belongs to the scheduled caste category and had sought an appointment as Constable (Executive) in Delhi Police in the year 2008-09. The result of the selection was declared in the month of April/May 2009 in which the name of the petitioner did not figure.

2. He filed an RTI application on October 21, 2009 seeking information on certain aspects relating to the recruitment process. Be it noted that no information was sought by him with respect to NCC Certificate alleged to have been submitted by him at the time of interview.

3. The last of the RTI application was submitted by him on May 30, 2011 which was replied by the Deputy Commissioner of Police, Recruitment cell, Delhi, vide his letter dated June 16, 2011, wherein against point No. 4 it was mentioned that one bonus mark for NCC Certificate-B was given to the candidates subject to the production of original NCC Certificate-B before the Board.

4 That thereafter he made a representation on June 30, 2011, wherein he stated

that he had submitted NCC Certificate-B at the time of the interview and required to be given one mark. He further requested the authorities that he be given the appointment to the post of Constable.

5. The representation of the petitioner was rejected by the Deputy Commissioner of Police, Recruitment Cell, Delhi, on September 02, 2011 wherein it is stated that the petitioner had not submitted NCC Certificate-B at the time of interview and as such no action can be taken with regard to his appointment as Constable.

6. The petitioner challenged the letter dated September 02, 2011 before the Tribunal. The Tribunal in its impugned order, was of the view that the plea of the petitioner was not supported by the records maintained for the purpose and in the absence of allegations of mala fides, his case was not found tenable by the Tribunal.

7. Mr. Arun Bhardwaj, learned counsel appearing for the petitioner would submit that since there was no column in the application form, the petitioner could not mention about the fact that he possesses NCC Certificate-B. He would further submit that the petitioner had sent the NCC Certificate-B along with the application and also submitted the same to the Interview Board. According to him, despite giving the certificate, he has not been granted one mark for undergoing the said course. If the same had been considered he would have got one mark which would have made him successful in the recruitment and would have been given the appointment.

8. On the other hand, learned counsel appearing for the respondents would submit that the petitioner had not submitted the copy of the NCC Certificate-B despite being told in categorical terms vide letter dated December 17, 2008 (Page 33 Annexure P5) which was issued to each of the candidates who were called for the interview. A perusal of the said letter would show that the Recruitment Cell had asked each of the candidates called for the interview to bring along with them attested photocopy of each document mentioned therein. Serial No. (vi) refer to the NCC Certificate-B&C.

9. The controversy before the Tribunal was whether the petitioner had submitted the photocopy of the NCC Certificate-B at the time of the interview. The Tribunal on this particular aspect has observed as under:

The ultimately boils down to the point as to whether the applicant deserved to be given 1 extra mark for the NCC Certificate, as per the respondents' policy. For want of an appropriate column for this purpose, the Application Form is of no avail. The requisite stage instead was at the time of the interview and the certificate was to be produced before the Interview Board, for which a record was maintained in a prescribed proforma. As against the bald submissions of the applicant, we have been confronted with the records produced by the respondents showing a negative status regarding the submission of such a certificate by the applicant before the Interview Board.

10. That apart the Tribunal in para No. 7 of the order has stated as under:

The settled law on the subject is that even a selected does not have a legally indefeasible right for appointment. In the present case, the applicant was not even a formally selected candidate. The claim being agitated pertains to a selection process of 2008-09 long since closed. The attempt on the part of the applicant in the present case is only by way agitating certain issues by relying upon information received upon the RTI. Even delving within that, there is no substantive basis to plead the claim of the applicant, which is not supported by the records maintained for the purpose. There is no plea of mala fide against the respondents. Even the plea of the case of the applicant deserving consideration against certain unfilled vacancies for that selection process has not been found to be tenable in view of the submissions by the respondents. The judgment of the Madras High Court being relied upon is not really relevant in the present context.

11. We have considered submissions made by the learned counsel for the parties.

12. We see that the Tribunal was justified in rejecting the Original Application filed by the petitioner for the reasons stated by it and which have been referred above. Apart from the above reasons, the additional reasons would be that the petitioner had not impleaded the last person selected as Constable (Executive) in the scheduled caste category. No relief could be granted without dislodging the last candidate selected in the said category. That apart it is seen that the selection process had taken place in the year 2008-09. Five years have gone by. Further it is the stand of the respondents that the remaining vacancies have been carried forward for the subsequent year(s) and the selection process has been conducted and the results have been declared.

13. Hence, we so no reason to interfere with the conclusion of the Tribunal in the impugned order dated June 01, 2012.

14. Before parting we pen a line of advice to the authorities. This situation would not have arisen, had they included one column specifying; whether a candidate possesses NCC Certificate-B or C, the same would have enabled a candidate actually possessing such a certificate(s) to indicate the same. We hope and trust, the authorities shall take steps in this regard.

15. In view of what we have said above, we dismiss the writ petition as being without merit. No costs.