
(2014) 08 DEL CK 0292

In the Delhi High Court

Case No : W.P. (C). 4832, 4848/2014 and C.M. Nos. 9649-50, 9667-68/2014

Staff Selection Commission

APPELLANT

Vs

Parveen

RESPONDENT

Date of Decision : 04-08-2014

Acts Referred:

Citation : (2014) 08 DEL CK 0292

Hon'ble Judges : Vipin Sanghi, J;S. Ravindra Bhat, J

Bench : Division Bench

Advocate : S.M. Arif, Advocate for the Appellant; Zubeda Begum, Advocate for the Respondent

Final Decision : Dismissed

Judgement

S. Ravindra Bhat, J.—The petitioner claims to be aggrieved by an order of Central Administrative Tribunal (CAT) dated 10.10.2013. The CAT by the said order set aside the final results of the recruitment process, for the post of Sub-Inspector (Executive) in Delhi Police, 2012. The CAT further directed to the authorities to draw the final results, strictly on the basis of aggregate marks obtained in the written examination and interview/personality test, i.e., without application of any cut off or qualifying marks for the interview.

2. The relevant facts are that the petitioner-Staff Selection Commission had issued an advertisement on 09.06.2012 calling for applications from eligible candidates to fill the vacancies in the cadre of Sub-Inspector (Executive) in Delhi Police. The recruitment process comprised of two parts. A candidate was to clear a written examination, carrying a maximum marks of 400, a physical Endurance Test/Medical Examination of a qualifying nature and an interview- cum- personality test of 100 marks. The written examination was in two papers, i.e., Part-I and Part-II, each carrying 200 marks. The controversy in the present case centres around the interpretation of the following conditions spelt out in the advertisement, which reads as follow:

Note: 1 Paper-I and II of the Written Examination will be held on the same day. However, the Commission may, at its discretion, decide to hold Paper-I of the Written Examination initially and candidates shortlisted for PET/Medical Examination may only be asked to appear in Paper-II subsequently. Paper-II of shortlisted candidates who qualify in PET/Medical Examination will only be evaluated. Only those candidates who secure qualifying marks in Paper-I of the Written Examination as fixed by the Commission, at its discretion, will be shortlisted for PET/Medical Examination. Candidates will be called for Personality Test/Interview on their combined performance in Paper-I and Paper-II.

NOTE-II: Candidates are not permitted to bring/use Mobile Phone, Calculator or any other electronic/electrical device for answering any paper. Candidates must not, therefore, bring Mobile Phone, Calculator or any other electronic/electrical device inside the Examination premises. Possession of these items, whether in use or not, will be considered as "use of unfair means" in the Examination and will lead to summary rejection of candidature besides debarment from the Commission's examination for a period up to 5 years.

NOTE-III: Discrepancies in Question Paper, if any, may be brought to the notice of the Commission in writing within 15 days of holding the examination or after placement of answer keys on the website of the Commission, whichever is later. Representation submitted thereafter will not be considered.

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12. MODE OF SELECTION:

After the written Examination and the interview/personality test, the Commission will draw up an All India Merit List and, in that order, as many candidates as are found by the Commission to have qualified in the Examination shall be recommended for appointment upto the number of unreserved vacancies available taking into consideration their options for the posts included in the examination.

The Commission will recommend the candidates in the Merit List on the basis of the aggregate marks obtained by the candidates in the written examination and interview/personality test.

Provided that SC, ST and OBC, (including minority community with OBC) who are selected on their own merit without relaxed standards, along with candidates belonging to other communities, will not be adjusted against the reserved share of vacancies. Such SC, ST, OBC will be accommodated against the general/unreserved vacancies as per their position in the overall Merit List. The reserved vacancies will be filled up separately from amongst the eligible SCs, STs, OBCs candidates which will, thus, comprise of SC, ST, OBC and Minorities candidates who are lower in merit than the last general candidate on merit list of unreserved category but otherwise found suitable for appointment by relaxed standard.

3. The respondent-applicants, who were candidates in the recruitment process,

approached the CAT complaining that though they scored higher aggregate marks than several others, their names did not figure in the Select List. They contended that the recruitment process was also tainted in that the minimum percentage in the interview, i.e., 25% for General Candidates and 20% for other reserved candidates was fixed after the issue of the advertisement contrary to the scheme of the examination, without providing the applicants due notice. In support of this position, the respondents relied upon certain rulings, including the judgment of Supreme Court in *K.H. Siraj Vs. High Court of Kerala and Others*, and *Barot Vijaykumar Balakrishna and Others Vs. Modh Vinaykumar Dasrathlal and Others*, .

4. The CAT, after considering these judgments as well as the other judgments cited on behalf of the petitioners, held that the stipulations contained in the advertisement only mention acquiring of minimum marks in the written examination. They further mandate that the candidates' performance, by totalling their marks in the written examination as well as in the interview would, only be taken into account, thus, ruling out the further imposition of any other unspecified condition.

5. Learned counsel for the petitioner-Staff Selection Commission urges that the impugned orders are not correct. He relies upon the Notes which were published in the advertisement and states that the candidates were put on notice as to the possibility of the Commission stipulating the minimum marks to be obtained not only in written examination, but also in the interview. He also relied upon the ruling of Supreme Court in *K.H.Siraj (supra)* and *Barot Vijaykumar Balakrishna (supra)*.

6. The concerned stipulation which had been published in the advertisement which has been set out above, Note-I, itself is explicit. It stipulates qualifying marks in respect of Paper-I of the written examination "as fixed by the Commission, at its discretion". The other stipulation, Note-II, Note-III as well as the other conditions in the syllabus nowhere reserve any such discretion in respect of any other part of the recruitment process, especially, vis-?-vis the performance during interview. Therefore, in the absence of any discretion reserved with the Commission to impose a minimum cut off mark or performance parameter, at a later stage, the Commission could not have midway, imposed such a criteria.

7. In this regard, the CAT, in this Court's opinion, correctly relied upon the decision in *K. Manjusree Vs. State of A.P. and Another*, and *Hemani Malhotra Vs. High Court of Delhi*, . At the same time, the Tribunal also noticed that in *K.H.Siraj (supra)* and *Barot Vijaykumar Balakrishna (supra)*, there were stipulations of the kind mentioned in Note-I, with respect to the concerned part of the selection process, i.e., performance in interview, etc. In this case, having reserved for itself expressly, the right to impose a minimum standard in respect of Paper-I and not in respect of Paper-II and the interview, the Commission could not have contended that its exercise of such discretion in respect of minimum marks for

the interview stage, after declaration of the results, was lawful. This Court is, therefore, of the opinion that the CAT's judgment cannot be faulted.

The writ petitions being without any merit are, therefore, dismissed.