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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: May 23, 2013*

+ **W.P.(C) 5592/2011**

GOVERNMENT OF NCT OF DELHI Petitioner
Represented by:Mr.V.K.Tandon and Mr.Yogesh
Saini, Advocates

versus

IRSHAD Respondent
Represented by:Mr.Anil Singal, Advocate

W.P.(C) 7820/2011

COMMISSIONER OF POLICE Petitioner
Represented by:Mr.V.K.Tandon and Mr.Yogesh
Saini, Advocates

versus

YOGESH KUMAR Respondent
Represented by:Mr.Vinay Kr.Sharma, Advocate

W.P.(C) 7824/2011

COMMISSIONER OF POLICE Petitioner
Represented by:Mr.V.K.Tandon and Mr.Yogesh
Saini, Advocates

versus

ROHTAS SINGH Respondent
Represented by:Mr.Anil Singal, Advocate

W.P.(C) 8435/2011

COMMISSIONER OF POLICE Petitioner
Represented by: Mr. V.K. Tandon and Mr. Yogesh
Saini, Advocates
versus
SAMINDER KUMAR Respondent
Represented by: Mr. Anil Singal, Advocate

W.P.(C) 456/2012

COMMISSIONER OF POLICE Petitioner
Represented by: Mr. V.K. Tandon and Mr. Yogesh
Saini, Advocates
versus
KULDEEP KUMAR Respondent
Represented by: Mr. Anil Singal, Advocate

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE V. KAMESWAR RAO

PRADEEP NANDRAJOG, J. (Oral)

1. We are concerned in the instant batch of writ petitions with Rule 7 of the Delhi Police (Appointment & Recruitment) Rules, 1980 which reads as under:-

“7. Rule of Sub-inspectors (Executive) –

Fifty percent of vacancies in the rank of Sub-Inspector (Executive) shall be filled by direct recruitment and 50% by promotion out of 50% direct quota, 10% of the post shall be filled by limited department competitive test from amongst constables, Head constables, and Asstt. Sub-Inspectors with minimum 5 years of service who shall not be more than 35 years (40 years for Scheduled

Castes/Scheduled Tribes candidates) of age on the first day of January of the year if the examination is held in the first half of the year and on the first day of July of the year if the examination is held in the later half of the year. The educational qualifications and other physical standards for the test shall be the same as prescribed in the Rules for direct recruitment to such posts. The unfilled vacancies reserved for the departmental candidates will be carried forward for 3 recruitment years as in the case of vacancies for the scheduled tribe candidate whereafter the unfilled vacancies will be filled by direct recruitment.”

2. A perusal of the Rule would reveal that appointment to the post of Sub-Inspector (Executive) has to be made by: (i) Promotion; (ii) Direct Recruitment; and (iii) Limited Departmental Competitive Test. 50% posts have to be filled up by promotion and of the remaining 50%, 10% thereof through the Limited Departmental Competitive Test and the remainder by direct recruitment. Thus, the vacancies have to be allocated in the respective quota each year.
3. So far so good. Because the writ petitioners and the respondents are not at variance on aforementioned understanding of Rule 7.
4. The problem arose in the year 2004 when the Government of India took a decision that security duties at Indira Gandhi International Airport would be manned by personnel of Central Industrial Security Force. This required withdrawal of Delhi Police Personnel, hitherto deputed for security duties at Indira Gandhi International Airport.
5. On July 07, 2004, the cadre controlling authority i.e. the Ministry of Home Affairs intimated to the Commissioner of Police that 1456 persons deployed for security duties at Indira Gandhi International Airport are no

longer required at the Airport, warranting 1456 posts in Delhi Police to be abolished. The break-up of the 1456 posts which were abolished was indicated as under:-

S.No.	Name of the post	Number of post abolished
1.	DCP (Executive)	1
2.	Addl.DCP (Executive)	1
3.	ACP (Executive)	5
4.	Inspector (Executive)	84
5.	Inspector (Ministerial)	2
6.	Sub-Inspector (Executive)	214
7.	Sub-Inspector (Ministerial)	7
8.	Sub-Inspector (Women)	79
9.	ASI (Ministerial)	13
10.	ASI (Driver)	4
11.	ASI (Steno)	1
12.	Head Constable (Executive)	390
13.	Head Constable (Min.)	26
14.	Head Constable (Women)	13
15.	Head Constable (Driver)	5
16.	Constable (Executive)	551
17.	Constable (Women)	36
18.	Constable (Driver)	10
19.	Class IV (Sweeper)	4
20.	Class IV (Cook)	4

21.	Class IV (Mochi)	2
22.	Class IV (Tailor)	1
23.	Class IV (Dhobi)	2
24.	Class IV (Barber)	1
	Total	1456

6. Taking note thereof, Delhi Police corrected the schedule of posts with it and since we are concerned with the post of Sub-Inspector (Executive)-Male, suffice would it be to state that such number of posts of Sub-Inspector (Executive)-Male which were abolished required a working out of the number of vacancies which hithertofores would be filled up in the direct recruitment quota, promotee quota and quota for the Limited Departmental Competitive Test Candidates.

7. There is a confusion in the communication dated July 13, 2004, in that, the data provided in the communication as per paragraph 1 thereof does not match with the corresponding figure noted in the subsequent para of the communication with respect to the posts of Sub-Inspectors, inasmuch as the tabular form data in paragraph 1 refers to 214 posts being abolished but in paragraph 50 the number mentioned is 250.

8. Learned counsel for the petitioner would concede that there is indeed a mismatch in the figures noted.

9. The Tribunal was seized with various Original Applications filed by candidates who had taken the Limited Departmental Competitive Test as also the selection for direct recruitment. In the advertisement inviting applications, the number of vacancies notified was 94 pertaining to the examination relating to the year 2004 and 692 for the year 2007. The

department i.e. the Commissioner of Police reduced the same to 59 and 686 respectively taking refuge under the fact that posts had been reduced.

10. The view taken by the Tribunal in the impugned decision is that since there is no clarity with reference to the manner in which the reduction has been worked out, the Commissioner of Police has been directed to work out the reduction and spread the same evenly in the 50% promotee quota, 40% direct recruitment quota and 10% quota pertaining to the Limited Departmental Competitive Test.

11. We see no reason why the writ petitions have been filed; for the reason on the principle of law i.e. the effect of reduction in the number of posts of Sub-Inspector and the same being required to be spread out evenly in the three quotas, there is no dispute. Mathematical working thereof needs to be reflected in a tabular form and applied. The decision of the Tribunal only warrants a mathematical application to the agreed legal principle.

12. Since, as noted hereinabove, the picture is not emerging with clarity as to what were the exact number of posts which were abolished and in what manner the consequential spread out of the reduction was worked out, we dispose of the writ petitions affirming the declaration of law by the Tribunal; on which neither party is in dispute. The Commissioner of Police shall work out, with clarity, by indicating in a tabular form the number of posts of Sub-Inspector (Executive)-Male abolished and its consequential impact on the promote quota, direct recruitment quota and LDCE quota for making promotions.

13. Needless to state that the order would be passed within six weeks from today and would be intimated to the respondents of all the writ petitions. With reference to the vacancies available to be filled up in the

respective quota, further action would be taken as contemplated by law.

14. No costs.

15. Dasti.

(PRADEEP NANDRAJOG)
JUDGE

(V. KAMESWAR RAO)
JUDGE

MAY 23, 2013
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