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

+ W.P.(C)7729/2015

% *Judgment dated 14th August, 2015*

AJAY KUMAR

..... Petitioner

Through : Mr.Pardeep Gupta, Mr. Parinav Gupta
and Ms. Mansi Ajmani, Advocates

versus

THE COMMISSIONER OF POLICE & ANR.

..... Respondents

Through : Mr. Arun Panwar, Advocate for
Mr. Raman Duggal, Senior Standing
Counsel for GNCTD.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. The petitioner seeks a writ of mandamus to quash the impugned order dated 24.03.2015 in OA 1783/2014 passed by the Principal Bench, Central Administrative Tribunal(hereinafter referred to as 'Tribunal'). The petitioner has also sought a direction to the respondents to conduct fresh trade test of driving of the petitioner and direction to the respondents to produce the videography.
2. As per the petition, in this case an advertisement was released for recruitment of the post of Constable (Driver) in Delhi Police in the year 2012. On 23.05.2013, the petitioner applied for the post which was to be filled up after a trade test. The petitioner was allotted Roll No.800009 and the test was to be held on 05.06.2013. As per the writ petition, the petitioner reported to the Police Training School on time. He was efficient

in driving and possessed a heavy vehicle driving licence. It has been alleged that while he was performing the test, the officer who was sitting in the vehicle threatened the petitioner and forcibly changed the gear with his hand so that the petitioner did not qualify. The petitioner was disqualified as communicated to him on 12.06.2013. Being dissatisfied on account of mischief and the *malafide* of the officer, the petitioner made a complaint to respondent no.2 demanding another test to be conducted by him (respondent no.2). The petitioner also sought a copy of the videography. The petitioner was informed that the videography is an official record which is carried out to bring transparency in the trade test and the decision of the trade test is taken by the Chairman of the Committee whose decision is final and it is the Chairman who had failed him in the trade test.

3. Learned counsel for the petitioner submits that the Tribunal has failed to take into consideration the mischief placed by the officer who was present at the time of the trade test. The learned counsel further contends that the person sitting in the vehicle had forcibly changed the gear with a view to intentionally disqualify the petitioner. It is also contended that the order of the Tribunal is bad in law and the same is liable to be set aside.
4. We have heard the counsel for the petitioner, examined the order passed by the Tribunal and also the pleadings filed before the Tribunal.
5. In the counter affidavit filed by the respondents before the Tribunal, it has been stated that the recruitment to the post of Constable(Driver) in Delhi Police is dealt under the provisions of Rule 17-A(XX) of the Delhi Police (Appointment & Recruitment) Rules, 1986 (Amended) as well as in accordance with instructions framed vide Standing Order No.-Recruitment-04(Previous Standing Order No.208/2010). The Point-8(b) of the said Standing Order states that Driving License of all the candidates who qualify the written test will be verified and only those candidates who

driving licenses are found genuine will be allowed to appear in the Trade Test. It was also disclosed that the trade test was only for the qualifying purpose. The test was to include Driving (a) Forward (b) Reverse (c) Parking and (d) Knowledge of traffic signs/basic driving rules. The above test was to be conducted by a board under the overall supervision of Joint CP/Addl. CP, Delhi assisted by DCP/ACP and other supporting staff as required by the board. To assist the board, sufficient number of technical staff from P&L and Traffic was also to be provided. To maintain impartiality and objectivity, the services of ACPs under training, officials from Delhi Police, Traffic Road Safety Cell and Technical experts from MT Section of Delhi Police were also associated for testing of road sense, maintenance and practical driving. In the counter affidavit, it has also been stated that the petitioner appeared in the trade test on 05.06.2013 and Chest No.1/1001 was allotted to him for trade test in Ground No.1 of PTS/Wazirabad. He was declared disqualified in Driving Reverse Test by the members of the Board as per the provision contained in Sub-Clause(b) of Point-8 of Trade Test of Standing Order framed on the subject. The counter affidavit also discloses that the petitioner was declared qualified in the Forward Driving, however, he was declared disqualified in Part-B of Trade Test, i.e. Driving (Reverse) which was conducted/taken by the specialist staff of Road Safety Cell/Traffic Unit and Technical experts of MT Section of Delhi Police. Further, the petitioner was orally communicated his disqualification on the same day, i.e., the day of Trade Test in the Part-B of the Trade Test, i.e. Driving (Reverse). The stand taken by the respondents before the CAT was that the videography of the events was done only for the purpose of fair dealing to avoid any unscrupulous practices during the recruitment and to maintain law and order situations. The respondents also made a specific averment that on

seeing the videography dated 05.06.2013 in respect of the applicant, it was evidently clear that the applicant was declared disqualified in part-B of Trade Test, i.e. Driving(Reverse) and there was nothing on record that the person sitting with the candidate threatened him or forcibly changed the gear due to which the candidate was declared disqualified in the reverse driving test. However, a stand was taken that the videography of the reverse driving test could be shown to the person authorized by the Hon'ble Court to see the facts.

6. We have heard the counsel for the petitioner. Except for a bald allegation with regard to the mischief having been played by the officer who was sitting in the vehicle by changing the gear at the time of trade test, we find there is nothing to substantiate this allegation. To the contrary, the counter affidavit clearly discloses that the trade test is conducted by a Board under the overall supervision of Joint CP/Additional CP assisted by DCP/ACP and other supporting staff as required by the Board. The Board is also assisted by technical staff from P&L and Traffic. With a view to maintain impartiality and objectivity, the services of ACPs under training, officials from Delhi Police, Traffic Road Safety Cell and Technical experts from MT Section of Delhi Police were also taken for testing of road sense and maintenance of practical driving. As far as videography is concerned, a categorical stand was taken in the counter affidavit that the videography of the reverse driving test of the petitioner can be shown to any authorized persons as directed by the Court.
7. In view of the elaborate procedure which has been detailed in the counter affidavit filed before the CAT, we find no grounds to interfere in the decision taken by the respondents in the trade test. The petitioner is unable to show as to why an unknown person, who has not been named either in the OA or in the writ petition, would mischievously change the gear at the

time of the trade test. Petitioner has also not been able to establish that the unknown person was inimical to him. In case the person sitting in the vehicle was the sole decision maker, there was no necessity for him to manipulate by changing the gears.

8. We find this writ petition without any merit; the same is accordingly dismissed.

CM.APPL 15152/2015(stay)

9. Since the present writ petition has been dismissed, the application also stands disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 14, 2015

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