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

+ W.P.(C) 7411/2016 & CM APPL. 30442/2016

% ***Judgment dated 7th September, 2016***

SANDEEP KUMAR & ORS

..... Petitioners

Through : Mr.Nilansh Gaur, Mr.Shanker Raju and
Ms.Himantika Saini Gaur, Advs.

versus

DELHI POLICE & ANR

..... Respondents

Through : Ms.Mahua Kalra, Adv. for
Mr.Peeyoosh Kalra, ASC (Civil) for
GNCTD.

+ W.P.(C) 7624/2016 & CM APPL. 31432/2015

BIJENDER KUMAR & ORS

..... Petitioners

Through : Mr.DK. Sharma, Adv.

versus

DELHI POLICE & ANR

..... Respondent

Through : Mr.Anuj Aggarwal, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S. MEHTA

G.S.SISTANI, J (ORAL)

1. Both the writ petitions arise out of a common order dated 5.5.2016 passed by the Central Administrative Tribunal (in short '*the Tribunal*') by which OA No.969/2016 (subject matter of W.P.(C) 7411/2016) and OA No.1244/2016 (subject matter of W.P.(C) 7624/2016) filed by the petitioners herein stand dismissed.

2. For the sake of convenience, facts in the case of W.P.(C) 7411/2016 are being noticed.
3. The brief facts of the case are that pursuant to an advertisement published in the month of January, 2013, in the leading newspapers dated 27.1.2013 and in the Employment News dated 26.1.2013 – 1.2.2013, *inter alia*, for filling up 1045 posts of Constable (Executive) in Delhi Police, the petitioners, being eligible candidates, applied for the said posts. The petitioners appeared in the Physical Endurance Test and Measurement Test. The petitioners, being qualified in the said tests, were issued admit cards to appear in the written examination held on 8.3.2014, however, the said examination was cancelled and rescheduled for 24.5.2014. The said examination was again rescheduled for 16.11.2014. The result of written examination was declared on 13.7.2015 wherein all the petitioners herein were declared successful. On 17.7.2015, the respondents issued a revised Select List as it was noticed by the respondents that at the time of preparation and declaration of the result on 13.7.2015, one bonus mark had not been added to the total marks of the candidates, whose height was measured as 178 cms. or above at the time of physical endurance and measurement test. In the said revised Select List, the petitioners were again declared successful. Thereafter the petitioners were called for completion of codal formalities. In the meanwhile, some of the candidates had approached the Tribunal by filing OA No.3657/2015 and OA 4258/2015 (wherein the petitioners herein were not parties) thereby questioning the correctness of Answer Key.
4. In the meanwhile, the respondents noticed that in the seven questions which were subject matter of challenge before the Tribunal had in fact typographical errors in their answer keys. Accordingly, the competent

authority constituted an Expert Committee to examine all the issues raised by the said applicants therein and to submit its report. Upon constitution of the Expert Committee, the OA Nos.3657/2015 and 4258/2015 were disposed of by the Tribunal by a common order dated 8.1.2016 with a direction that based on the report of the Expert Committee, the final action regarding recruitment process would be taken by the respondents. Relevant portion of the order dated 8.1.2016 reads as under:

“8. We have given our anxious consideration to the facts and circumstances of the case, and the rival contentions of the parties. The respondents have not made any averment with regard to the date(s) when they called for and received the comments from the Question Setter, when they realized that typographical errors had crept in the answer key, and when the competent authority decided to constitute the Expert Committee to examine all the issues raised by the applicants in the present O.As and other candidates, and to submit a report for the purpose of making a master compendium and resultant answer key. They have also not disclosed in their counter replies as to whether the said Expert Committee has already examined the issues and submitted its report. But, in view of the statements made by the respondents that further action regarding the recruitment process will be taken as per the recommendations of the Expert Committee, and that till date no candidate has been given opportunity for the post in question, and, considering the vagueness of the statements made by the respondents, we deem it just and proper to direct the respondents to ensure submission of the report by the said Expert Committee within one month from today, if such report has not yet been submitted by the Expert Committee, and to take further necessary action regarding the recruitment process within two months from today. Ordered accordingly.”

5. On the recommendation of the Expert Committee and pursuant to the decision taken by the competent authority, 21 questions were removed and all the candidates were awarded 21 bonus marks. A revised final

result was declared on 22.2.2016 wherein the name of the petitioners herein did not find mention, which led to the filing of two separate OAs by the petitioners, which were dismissed. The petitioners thereafter filed Review Applications, which were also dismissed. Aggrieved by the dismissal of the OAs and the Review Applications, the petitioners have filed the present writ petitions seeking to set aside the order dated 5.5.2016 passed in the OAs and order dated 1.6.2016 passed in the Review Applications.

6. Learned counsel for the respondents submit that there is no infirmity in the order passed by the Tribunal. It is further submitted that a uniform benefit has been given to all the candidates on account of deletion of 21 questions and, thus, the petitioners cannot raise any grievance thereof. It is further contended that after passing of the order dated 8.1.2016 by the Tribunal in the aforementioned OAs, the decision has been taken by the competent authority and the said order was not challenged, which has now attained finality.
7. Learned counsel for the respondents further submits that a decision has been taken by the respondents to issue a notification for recruitment to the post of Constable (Executive) for the year 2016 and an advertisement would be published on 10.9.2016. Counsel further submits that as far as the previous recruitment process is concerned, the appointment letters have already been issued and the successful candidates have been sent for training. Thus, no challenge can be made at this belated stage.
8. At this stage, learned counsel for the petitioners submit that some of the candidates, who have been declared successful, have filed OAs before the Tribunal and the OAs are still pending. Thus, the petitioners and some other candidates, who have not joined the present batch of writ

petitions, would make an appropriate application before the Tribunal for impleadment to enable them to raise all grounds available to them.

9. Accordingly, in view of the stand taken by the counsel for the petitioners, present writ petitions stand dismissed as not pressed.

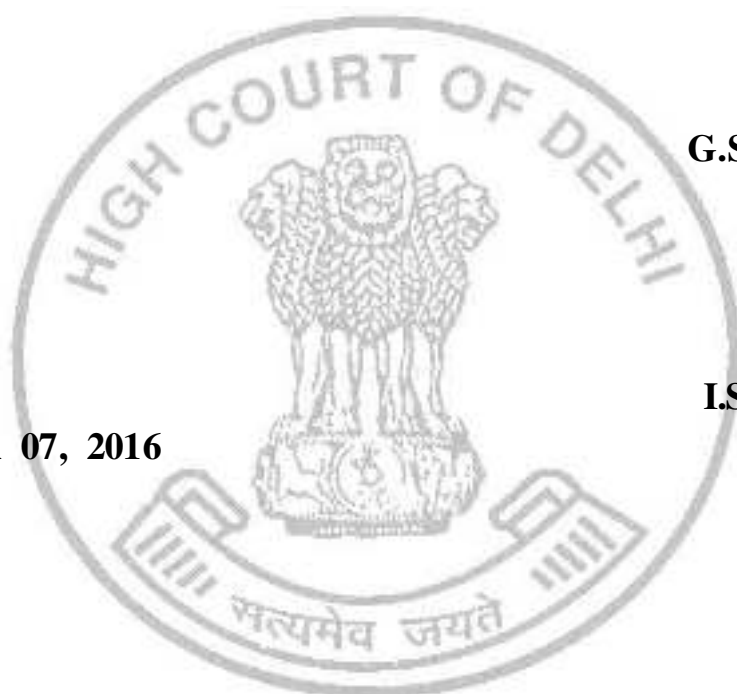
CM APPL. 30442/2016 IN W.P.(C) 7411/2016.

CM APPL. 31432/2016 IN W.P.(C) 7624/2016.

10. Applications stand disposed of in view of the order passed in the writ petitions.

SEPTEMBER 07, 2016

msr



G.S.SISTANI, J

I.S. MEHTA, J