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

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Date of Decision: 14.03.2019

% **W.P.(C) 5458/2015**

COMMISSIONER OF POLICE AND ANR. Petitioner

Through: Mr.Anuj Aggarwal, ASC, GNCTD and
Mr.G.C. Shyamsundar, Advocate

versus

RAVINDER KUMAR Respondent

Through: Mr.Gopesh Tripathi, Advocate

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J. (ORAL)

1. Commissioner of Police has preferred the present writ petition to assail the order dated 25.2.2013 passed by the Central Administrative Tribunal in OA No.3733/2012. The Tribunal has held that the respondent was entitled to one mark on account of the fact that one of the questions framed in the examination was confusing, and the answer given to the same by the respondent was the more appropriate one than the model answer. The question related to the maximum sentence which could be awarded under the Public Gambling Act. The Tribunal noted that there are two Acts, namely 'The Public Gambling Act, 1867', which prescribes the maximum

punishment of one month, and the 'Delhi Public Gambling Act, 1955', which prescribes maximum punishment of three months. The respondent had given the answer as three months. The Tribunal held that since the question only mentions The "Public Gambling Act", without specifying whether it was the Public Gambling Act, 1867, or the Delhi Public Gambling Act, 1955, the respondent was justified in writing the answer as three months. We may observe that the finding on this aspect was also assailed by the petitioner in the present writ petition. While passing the order dated 26.5.2015, this Court has already rejected the submission. Thus, this issue stands closed.

2. The respondent was also directed to be awarded one mark by the Tribunal on account of his possessing an extra professional skill. The only dispute that is raised by the petitioner is, whether, the petitioner was entitled to get the said one extra mark.

3. According to the petitioner the said extra professional skill should have been acquired on or before 31.3.2011, which was stated to be the cut-off date for determining/ counting the age limit and service matters i.e. good / bad entries, whereas, according to the respondent – and as found by the Tribunal, the cut-off date in respect of extra professional skill should have been taken as the last date for submission of the application in response to the advertisement/ circular issued by the petitioner for consideration of promotion to the post of Head Constable.

4. The Tribunal has held that merely because the cut-off date for counting the age limit and service matters i.e. good /bad entries is fixed as

31.3.2011, the same cut-off date cannot be prescribed in respect of extra professional skill acquired by the respondent.

5. The Standing Order No.91/2011 has been issued by the petitioner on the subject of “*promotion of Constable (Exe.) (male and female) to the rank of Head Constable in Delhi Police.*” The said Standing Order lays down, inter alia, the eligibility criteria; procedure for counting of chances availed; professional courses; extra professional skills, in respect whereof, maximum of 5 marks could be awarded to the candidates. The relevant extract contained in clause (e) under the heading “*service record & seniority*” reads as follows:

“ *Extra – Professional Skills:- Maximum 5 marks shall be allotted for having the following extra Professional Skills:-*

S.I. No.	Nature of Professional Skills	Marks
1.	For possessing valid driving licence for LMV/ HTV issued by any state & government Licensing Authority / Transport Authority	1

”

The note appended to the above tabulation reads as under:

“Note: - The applicant must attach attested photocopies of the above mention degree professional course/ driving license for perusal of DPC for allotment of marks. The nodal officer of the distt./Unit will ensure the at entry to this effect has been properly made in the intra DP in the particulars of the

candidates who are in possession of the professional degree / driving license etc.”

6. The submission of Mr. Aggarwal, counsel for the petitioner, is that since the cut-off date for counting age limit and service matters i.e. good/bad entries was fixed as 31.3.2011, the said cut-off date was relevant for determining whether the candidate was entitled to marks for professional courses or extra professional skills.

7. In the present case the cut-off date for making the application for participation in departmental examination in question was 31.7.2011. The respondent obtained the driving licence on 26.7.2011. According to the petitioner, since the same was obtained after 31.3.2011, the respondent was not entitled to one mark for obtaining the professional skills. The respondent has contested the submissions of the petitioner.

8. We have considered the submission of counsels for the parties and perused the impugned order. The advertisement /circular in question had stipulated the cut-off date for counting age limit and service matters i.e. good /bad entries as 31.3.2011. The petitioner is the author of the said circular. Petitioner is also the author of the aforesaid Standing Order. The petitioner was well aware that for professional courses, and extra professional skills, the candidates are entitled to marks. Therefore, nothing prevented the petitioner from clearly stating under Clause (g) of the advertisement /circular in question, that for counting age limit, professional courses / extra professional skills and service matters, the cut-off date is 31.3.2011. There is a conscious omission by the petitioner with regard to

the prescription of the cut-off date in respect of the professional courses and extra professional skills. The petitioner being the author of the circular/ advertisement in question, the same has to be read against it if two interpretations are possible. The Tribunal is taken a reasonable view that normal cut-off date is the last date for submission of the application form prescribed in the advertisement.

9. In view of the aforesaid, we are not inclined to interfere in the impugned order. Accordingly, the petition is dismissed.

10. Petitioner is directed to implement the decision of the Tribunal within four weeks from today.

VIPIN SANGHI, J.

REKHA PALLI, J.

MARCH 14, 2019
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