

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

% **Date of decision: 28th May, 2021.**

+ **W.P.(C) 5014/2021**

SATISH

..... Petitioner

Through: Mr. Prashant Tripathi & Ms. Shivani
Aggarwal, Advocates.

Versus

STAFF SELECTION COMMISSION

..... Respondent

Through: Mr. Satya Ranjan Swain with
Mr. Sahaj Garg & Mr. Vedansh
Anand, Advocates for R-1.
Ms. Avnish Ahlawat, Advocate for
Delhi Police.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

[VIA VIDEO CONFERENCING]

RAJIV SAHAI ENDLAW, J.

1. On 24th May, 2021, when this petition first came before us *inter alia* the following order was passed:

"3. The petitioner, in pursuance to the Notification dated 3rd March, 2018 of the respondent Staff Selection Commission (SSC), of recruitment of Sub-Inspectors in Delhi Police, Central Armed Police Forces and Assistant Sub-Inspectors in Central Industrial Security Force, participated in the recruitment process and qualified till the Detailed Medical Examination stage and was declared medically fit.

Thereafter, the document verification of the successful candidates was to take place.

4. It is the case of the petitioner, that since notwithstanding the notification on the official website of the respondent SSC, the petitioner also received a personal intimation of the date for the Detailed Medical Examination, he remained under the impression that he would similarly be personally communicated the date for document verification; however on not receiving any intimation, on enquiry, he learnt that document verification of successful candidates was conducted from 8th March, 2021 to 13th March, 2021 and in which he could not participate. It is further the case of the petitioner that he represented on 31st March, 2021 and 10th April, 2021, but to no avail. It is yet further the case of the petitioner, that he is working as the Naib Court in Tis Hazari Courts and owing to his work also, failed to check the official website of the respondent SSC to know of the date of document verification published.

5. We have enquired from the counsel for the petitioner, whether the petitioner participated in the recruitment process as a departmental candidate, through official channel.

6. The counsel for the petitioner replies in the affirmative.

7. We have further enquired from the counsel for the petitioner, whether the final result of the recruitment aforesaid has been declared.

8. *The counsel for the petitioner states that the final result of the departmental candidates has not been declared as yet.*

9. *The counsel for the respondent SSC appears on advance notice and states that he has a short affidavit ready and be permitted to place the same on record.*

10. *We have enquired from the counsel for the respondent SSC, whether the final result of the departmental candidates has been declared.*

11. *The counsel for the respondent SSC is not having instructions on the aforesaid aspect.*

12. *We have further enquired from the counsel for the respondent SSC, how many vacancies existed for the departmental candidates and how many of the said vacancies have been filled up.*

13. *The counsel for the respondent SSC does not have instructions on the said aspect also but states that there were 2,299 successful candidates and out of which 1,999 admit cards were uploaded for document verification and out of which 1,902 candidates appeared for document verification.*

14. *Issue notice.*

15. *Notice is accepted by the counsel for the respondent.*

16. *The affidavit, which is stated to be ready, be filed in the course of the day and / or be e-mailed to the Court Master.*

17. The concerned officer of the respondent SSC, in the know of all the aforesaid facts, to remain present on the next date of hearing.

18. List on 27th May, 2021.”

2. Yesterday, on 27th May, 2021 it was informed that though the result of the departmental candidates had not been declared till then but was likely to be declared by evening. However, whether all the vacancies of departmental candidates had been filled, was still not disclosed. The matter was adjourned to today and presence on behalf of Delhi Police directed.

3. In pursuance to yesterday's order, Ms. Avnish Ahlawat, Advocate appears for Delhi Police and in response to our query informs that in the result declared yesterday, all the 137 vacancies of departmental candidates have been filled up. It is further stated that the petitioner, though had sufficient time to upload his documents for verification, failed to do so.

4. Once it is so, we cannot give preference to the petitioner, who admittedly was at fault, over another candidate who has been selected and who though lower in rank on merits than the petitioner, complied with the selection formalities in time and has been selected. In law, we are unable to give any advantage to a candidate, admittedly in default, over a candidate in compliance. We have recently in *Union of India Vs. Shailja Saxena* MANU/DE/0502/2021 held that when rights claimed are to a limited number of posts/vacancies and grant of relief to the petitioner has to be to the prejudice to others, the Court, without hearing the others and/or without considering the comparative claims of the petitioner and the said others,

cannot grant relief to the petitioner. On the said anvil, the petitioner cannot be directed to be selected/considered.

5. The counsel for the petitioner then contends that this was the last chance of the petitioner to appear for direct recruitment inasmuch as the petitioner, for the next year was/is overage; permission to participate beyond the prescribed age is sought.

6. The facts of the case, as noted in the order dated 24th May, 2021, do not permit us to grant this indulgence either to the petitioner. It is not as if the petitioner has been denied the relief, seeking which this petition has been filed, in spite of being entitled thereto and without any fault on his part or for reasons attributable to others and in which case the Courts have at times moulded the relief and granted another opportunity, as sought by the counsel for the petitioner. Here, the petitioner is admittedly at fault in non-compliance with the selection procedure. Only for the reason of finding the default of the petitioner to be not grave, we on 24th May, 2021 had issued notice to explore whether any benefit could be given to the petitioner. Having now found that it is not so possible, we cannot bend the rules as to maximum age for the petitioner who has himself to blame for, in spite of clearing several stages of the selection process, having defaulted in the end.

7. The petition fails and is dismissed.

RAJIV SAHAI ENDLAW, J.

AMIT BANSAL, J.

MAY 28, 2021/ak