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

+ **W.P.(C) 6552/2021**

RAKESH MEENA & ORS.

..... Petitioners

Through: **Mr. Prashant Bhushan, Advocate.**

versus

UNION OF INDIA & ANR.

..... Respondents

Through: **Mr. Jagjit Singh, Senior Panel
Counsel with Mr. Preet Singh and Mr.
Vipin Chaudhary, Advocates.**

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

% **15.07.2021**

[VIA VIDEO CONFERENCING]

CM No.20569/2021 (for exemption)

1. Allowed, subject to just exceptions and as per extant Rules.
2. The application is disposed of.

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3. The 76 petitioners were candidates for recruitment as Constables in the respondents Railway Protection Force (RPF)/Railway Protection Special Force (RPSF), pursuant to the recruitment notification of November, 2011 for 17087 posts of Constables. The Select List of the said recruitment process was finally published on 17th September, 2014 and which did not contain the names of the petitioners.
4. The counsel for the petitioners has argued, that some other candidates, similarly placed as the petitioners, as well as some of the 76 petitioners

herein, aggrieved from non-inclusion of their name in the Select List, in or about the year 2015, approached the Allahabad High Court by filing W.P.(C) No.65319/2015 and which writ petition was disposed of vide order dated 28th April, 2015, directing the respondents to dispose of representations of the petitioners. It is further the contention of the counsel for the petitioners, that the respondents RPF/RPSF, in compliance of the said direction, vide communication dated 2nd June, 2015 informed that the names of the petitioners before the Allahabad High Court were not included in the Select List as they were below the cut-off.

5. The counsel for the petitioners has argued that, (i) though the respondents RPF/RPSF, vide Standing Order No. 85 of March, 2009 on the subject of “Procedure Regarding Recruitment of Constables in RPF/RPSF” were required to prepare a panel as well as a supplementary list of 20% of the vacancies, candidates wherein would be on standby and would be considered for empanelment if there was any shortfall in empanelment from the main panel, but did not prepare the said Supplementary List of 20% of the vacancies; (ii) there was always a possibility of several candidates in the Select List not joining and the 20% Supplementary List was required to be prepared to fill up such vacant positions from the candidates in the Supplementary List; and, (iii) the respondents, in their communication in compliance of the order of the Allahabad High Court, misstated facts and which resulted in the petitioners therein and herein not pursuing the matter further.

6. The counsel for the petitioners has further informed that some other persons similarly situated as the petitioners had filed petition in this Court also, being W.P.(C) No.4526/2018 and which also stood dismissed on 5th

December, 2019. It is stated that the petitioners have only now learnt that there are still some vacancies. Direction/relief in this petition, of abiding by Clauses 13 and 14 of Standing Order No.85 of 2009 and of consideration of the petitioners for appointment to the post of Constable in pursuance to the Recruitment Notification of 2011, is sought.

7. We have enquired from the counsel for the petitioners, whether not each panel prepared for appointment, including a supplementary panel, has a life of its own and what is the life provided for the subject panel.

8. The counsel for the petitioners states that no provision with respect to the life of the panel is contained in the Standing Order aforesaid.

9. Even if it is so, a panel drawn up pursuant to Recruitment Notification issued 10 years ago and results whereof were announced 7 years ago, cannot be for ever and recruitments cannot continue to happen even after a decade.

10. Not only so, even if there was any violation of the Standing Order by the respondents, in not preparing a Supplementary List/Panel, the cause of action with respect thereto accrued 7 years ago i.e. on 17th September, 2014 and this petition is highly belated. The petitioners are found to have slept over their rights and cannot, in the matter of appointment/recruitment, wake up after 7 years and seek appointment. The same, if permitted, would play havoc with various issues including of seniority etc continuing to arise in future.

11. As far as the argument of the counsel for the petitioners, of the vacancies existing today also, is concerned, if the petitioners desire appointment today for the vacancies to the post of Constables in RPF/RPFS, they have to compete with others also seeking such appointment and cannot on the basis of their performance of nearly a decade ago seek a march over

others in queue for filling up of the vacancies.

12. The counsel for the petitioners contends that the petitioners today may be barred by age and may have other impediments to recruitment. Even if it is so, the petitioners have themselves to blame therefor.

13. The counsel for the petitioners contends that in *Delhi Subordinate Services Selection Board Vs. Lokesh Kumar* 2013 SCC OnLine Del 947, in identical facts, appointment was ordered.

14. On going through the said judgment, we find that the petitioners therein availed their legal remedies immediately and without any delay.

15. The counsel for the petitioners has also referred to paragraph 8 of *Dinesh Kumar Kashyap Vs. South East Central Railway* (2019) 12 SCC 798. However on enquiry, it is stated that the candidates therein had agitated their rights immediately and not after so much delay, as in the present case.

16. Dismissed.

RAJIV SAHAI ENDLAW, J

AMIT BANSAL, J

JULY 15, 2021
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