

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

Judgment delivered on: July 12, 2023

+ W.P.(C) 6490/2021

HANSRAJ

..... Petitioner

Through: Mr. M.K. Bhardwaj, Adv.

versus

COMMISSIONER OF POLICE AND ANR

..... Respondents

Through: Mrs. Avnish Ahlawat, SC with
Mr. N.K. Singh Singh, Mrs. Palak
Rohmetra and Ms. Aliza Alam,
Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

J U D G M E N T

V. KAMESWAR RAO, J

1. The challenge in this writ petition is to an order dated February 13, 2020, passed by the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal', for short) in Original Application No.4666/2014 ('OA', for short) whereby the Tribunal has dismissed the OA filed by three persons including the petitioner herein.

2. The challenge in the OA by the petitioner(s) therein was to an order dated March 10, 2014, whereby, the representation of the



petitioner(s) to count their training period while being promoted as Head Constable (Assistant Wireless Operator) ('HC (AWO)', for short) for the purpose of increment(s), was rejected.

3. The petitioner Hansraj (who has filed this petition) was initially appointed as constable on August 7, 1991 and was promoted (absorbed) as HC (AWO) in Communication Unit of Delhi Police on August 7, 2000. Rule 17 of the Delhi Police (Appointment and Recruitment) Rules, 1980 ('Rules of 1980', for short), deals with appointment of Radio (Wireless) and MT Staff and Rule 17-B(IV) and appointment / promotion to the post of AWO / Teleprinter Operator (HC). Standing Order No.223/86, deals with the appointment of Assistant Wireless Operator Grade-III (HC) and Teleprinter Operator Grade-III (HC) in Delhi Police, in accordance with Rule 17-B(IV) of the amended Rules, 1986 read with Rule 13(ii) of the Rules of 1980.

4. The promotion to the post in question was to be made from amongst confirmed (Matriculate) Constables after passing VHR R.T. Course Grade-III, and having six months experience as Radio Operator by the Deputy Commissioner of Police (Communication).

5. The case of the respondents before the Tribunal was that, promotion was to be made amongst those names which exist on promotion list – B (Technical) and the constitution of the DPC is Group-C DPC (list-B) (Tech.) as provided in Rule 8 of the Rules of 1980. It was also their case that the confirmed constables having the requisite qualification i.e., a minimum of three years of satisfactory service in Delhi Police, shall be eligible for consideration. A circular to this effect was issued, calling applications from all eligible serving



Constables of Delhi Police with the recommendations of the District / Units.

6. A preliminary selection test was conducted as per the office order, and those securing 33% and above marks in each paper were selected to undergo the AWOs / Teleprinter Operator (HC) course for a period of nine months including three months practical training in batches according to the merit list.

7. On completion of AWO / TPO Grade-III Course, the constables are to appear for a test conducted by the Trade Test Board, nominated by the Commissioner of Delhi Police and are required to obtain the minimum marks as per Standing Order No.223/86. The same is as follows:

(i)	<i>Radio Theory</i>	40%
(ii)	<i>Radio Procedure</i>	60%
(iii)	<i>Practicals (Practical working and vivo-voce)</i>	50%
(iv)	<i>Morse sending / receiving</i>	40%
(v)	<i>Typing</i>	40%

8. The names of the constables selected by the DPC are brought on list – B (Technical) (as per Rules of 1980) in the order of their seniority in the rank of Constable in their respective categories. Thereafter, promotion orders are issued under Rule 7 of the Rules of 1980.

9. It was also the case of the respondents that, insofar as the direct recruitment is concerned, the candidates fulfilling the requisite



qualifications as provided in Sr. No.8 of Rule 17-B(IV) are put to selection test by the Trade Test Board and those who are selected are appointed as Head Constable (Wireless Operator) / Head Constable (AWO) on temporary basis. Thereafter, they are sent for training of three months and on having passed the AWO Trade Training Test, they continue in service. Since, they are first appointed as HC AWO / Wireless Operator though on temporary basis, they are entitled to the pay scale of the post of Head Constable even during their training.

10. It was the case of the respondents that the petitioner and other similarly placed constables are entitled to promotion only after completing the training, passing of Trade Test and selection by DPC when their names are brought on list-B (Technical) under Rule 13(ii) of the Rules of 1980 and they are paid the salary of the post of Head Constable when they are promoted.

11. It was also their case that the educational qualifications required for the candidates seeking direct recruitment and those who are inducted through promotion are different.

12. In fact, it was also stated that the promotion of the constables who desire to shift to the technical category are shortlisted and then given training in the Trade and having passed VHF R.T. Course Grade-III and having six months experience as Radio Operator, their names are brought on list – B by the DPC and thereafter the promotion orders are issued. It was their case that the constables, who fail to qualify the Trade Test are reverted to the parent, District / Unit immediately by the DCP (Communication). The constables who are promoted as Head Constables become entitled to the salary of the post



only when they are actually promoted to the post of HC (AWO).

13. The petitioner and similarly placed constables were considered for promotion to the rank of HC (AWO) in the year 1999 and were sent for training as HC (AWO). After passing the course, their names were brought on list –B (Technical) and were promoted to the rank of HC (AWO) w.e.f. August 7, 2000. On promotion from the post of Constable to Head Constable, pay is fixed under FR-22(1)(a)(i) from the date of their promotion. Hence, it was their case that, they cannot claim the scale of the promotional post while they are in training. It is only after their names are brought on list –B (Technical) and are promoted to the post, they become entitled to the pay scale.

14. Mr. M.K. Bhardwaj, learned counsel for the petitioner would primarily rely upon the judgment of the Madras High Court in the case of *Nuclear Power Corporation & Anr. v. P. Ravindran & Ors., W.P. No.15509/1998* and connected writ petition(s), decided on July 12, 2006, to contend that the training period need to be counted for the purpose of the increment(s).

15. He has also relied upon the Department of Personnel and Training ('DoP&T', for short) OMs dated October 22, 1990, March 31, 1992 and August 30, 1994 in support of his submission that when a directly recruited HC (AWO) is granted the scale of Head Constable even during the training, there is no reason to deny the counting of the training period for the purpose of increment(s).

16. On the other hand, Mrs. Avnish Ahlawat, learned Standing Counsel appearing for the respondents would justify the impugned order of the Tribunal by stating that in terms of the Rules, the benefit



of the training cannot be given for any purpose, more so, when a Constable, who fails in the final trade test, is reverted.

17. Having heard the learned counsel for the parties, at the outset we may state that the challenge before the Tribunal was to the order dated March 10, 2014 which was passed on the representations made by the petitioner/applicants on October 8, 2013 and November 27, 2013 whereby they have sought that the training period for promotion to the post of HC (AWO) be counted for the purpose of increment(s) in the scale of concerned post.

18. It may be stated here that, as per the stand of the respondents as noted above, it is clear that the final promotion order to the post of HC (AWO) is only issued after the process of selection which includes a preliminary selection test, followed by AWO / Teleprinter Operator (HC) Course for a period of nine months including three months practical training in batches according to the merit list, which is also followed by a test conducted by the Trade Test Board whereby the candidates/constables are required to obtain minimum marks in terms of Standing Order No.223/86.

19. It is pursuant thereto that the selected constables are brought on list – B (Technical) in the order of their seniority and promotion orders are issued. The aforesaid procedure is not followed in the case of direct recruitment. Surely, during the period of training when the constable has not been expressly / through an order, promoted as a Head Constable, there is no reason to count the period of training for the purpose of grant of increment(s), that too on the post of Head Constable. The service in the post of Head Constable would only



commence when a constable has been issued an order of promotion as HC (AWO). It is not the case of the petitioner that the period of training is not counted for the purpose of increment(s) in the grade of Constable.

20. In other words, during the training period the petitioner was working as a constable and not as a Head Constable, hence the period would become relevant only for the purpose of grant of increment on the post of Constable and not on the post of Head Constable.

21. We have already referred to the stand of the respondents as to why a directly recruited HC (AWO) / Teleprinter Operator is entitled to the scale of Head Constable; i.e., as the direct recruit Head Constable undergo the training after he is actually appointed as HC (AWO) / Teleprinter Operator.

22. The reliance placed by Mr. Bhardwaj on the judgment of the Madras High Court in the case of ***Nuclear Power Corporation & Anr. (supra)*** wherein, a reference has been made to OMs dated October 22, 1990 and March 31, 1992 has no applicability to the facts of this case, more so, in view of the position under the Rules of 1980. In the said case, the Department of Atomic Energy; Madras Atomic Power Project, a Government of India undertaking, invited applications to the post of Stipendiary Trainees under various categories of employment. Several candidates were selected and engaged as Stipendiary Trainees on consolidated monthly pay. After successful completion of the training period, the trainees were absorbed and appointed on the regular post, viz. Tradesman-B, carrying the regular time scale of pay, and they were also given one or two increments based on their



performance during the training period. The OM dated October 22, 1990, issued by the DoP&T stipulated that, where a person selected for regular appointment and where he is required to undergo training before formally taking over charge of the post, such training period whether on remuneration or stipend or otherwise may be treated as duty for the purpose of drawing increments. The said benefit was granted w.e.f. October 1, 1990. The said OM was followed by another OM dated March 31, 1992 extending the very same benefit to the government servants who have undergone such training on or after January 1, 1986, with actual benefits from October 1, 1990.

23. It is not such a case herein. In fact, the above OM's are applicable to the post of HC (AWO) / Teleprinter Operator, where appointment is on direct recruitment basis but not to the post of HC (AWO) where appointment is made through promotion.

24. Hence, we are of the view that the decision of the Tribunal dismissing the OA cannot be faulted. We see no reason to interfere with the impugned order of the Tribunal. The writ petition is devoid of any merit and the same is dismissed.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J.

JULY 12, 2023/aky/jg