



2024:DHC:8488-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 04.11.2024

(30)+ W.P.(C) 1582/2024

VIJAY KUMAR AND ORS

.....Petitioners

versus

SASHASTRA SEEMA BAL AND ANR

.....Respondents

(31)+ W.P.(C) 1839/2024

ANUJ SINGH

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

(32)+ W.P.(C) 2520/2024

VIKAS KUMAR

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

(33)+ W.P.(C) 3502/2024

PARDEEP KUMAR

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

(34)+ W.P.(C) 3540/2024

SACHIN SINGH

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

(35)+ W.P.(C) 3543/2024

RAHUL

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents



2024:DHC:8488-DB

**Appearance:**

For Petitioners: Mr.Ajay Garg, Ms.Tripti Gola, Mr.Uday Garg, Mr.Arvind Sardana, Advs. (Item no.30).
Ms.Saahila Lamba, Adv. (item nos.31 to 35).

Respondents: Mr.Jivesh Kumar Tiwari, SPC, Mr.Vinod Tiwari (GP), Ms.Samiksha, Adv. (item no.30).
Ms.Anushkaa Arora, SPC (item no.32).
Mr.Raghvendra Shukla, SPC (item no.33).
Mr.Nitinjya Chaudhry, SPC, Mr.Vivek Nagar (GP)
Mr.Rahul mourya, Adv. (Item no.34).
Mr.Rajnish Kumar Gaiind, SPC (Item no. 35).
Mr.Vedansh Anand, GP in item nos.30,32,33.
Dy.Jag. Devendra Singh and SI Shrabanta Sarkar.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (Oral)**

1. These petitions have been filed praying for a direction to the respondents to maintain the reserve panel/waiting list of the candidates in the recruitment to the post of Constable (Driver) [in W.P.(C) 1582/2024; W.P.(C) 1839/2024 & W.P.(C) 2520/2024], Constable (Washerman) [in WP(C) 3502/2024]; Constable (Cobbler) [in WP(C) 3540/2024]; and Constable (Tailor) [in WP(C) 3543/2024].
2. For the sake of brevity, the facts narrated herein are taken from WP(C) 1582/2024. It is admitted that the other Writ Petitions are based on almost identical facts and the case of the respondents is also the same.
3. The respondent no.1 had issued a combined advertisement on



28.07.2020 for the recruitment of post of Constable (Driver) male and other trades, such as Washerman, Tailor, etc., for both male and female.

4. As far as the post of Constable (Driver) is concerned, 574 vacancies were advertised for male. The selection process was to be conducted in four stages, that is, Physical Standard Test (PST)/ Physical Efficiency Test (PET), Written Examination, Documentation and Trade/Skill Test, DME/RME.

5. It is the case of the petitioners that the petitioners duly qualified in all stages of the recruitment process, however, their names were not there in the final select list that was declared on 21.11.2023, provisionally selecting only 446 candidates for the 574 vacancies for the said post of Constable (Driver). The result for the remaining vacancies for EWS and suspected candidates were withheld. The petitioners claim that in January, 2024, the petitioners came to know that there are more than 100 vacancies lying vacant/unfilled by the Sashastra Seema Bal (SSB), that is, the respondent no.1 for the said post due to non-joining, abandoning and non-appointment, etc., of the selected candidates. The petitioners claim that at least 55 of the selected candidates have not joined as they have been selected in some other Force/Police and have already joined there. In the above facts, the petitioners claim that the respondents must operate a waiting list/reserve panel so that all the advertised vacancies for the said posts are filled up.

6. The learned counsels for the petitioners, in support of the above prayer, have placed reliance on the Order dated 23.08.2022 of the Co-



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ordinate Bench of this Court in WP(C) 6394/2022, titled **Ashish & Ors. v. Sashastra Seema Bal & Anr.**, wherein, this Court in similar facts had directed that all the unfilled vacancies, which arose due to non-acceptance, cancellation, non-appointment, etc., in the selection process, shall be filled up and all the candidates in line shall be duly considered. The learned counsels for the petitioners contend that the said Judgment also stands complied with by the respondents.

7. The learned counsel for the petitioners further placed reliance on the Judgment dated 04.09.2024 of this Court in WP(C) 12315/2024, titled **Sushma Kumari & Anr. v. Sashastra Seema Bal & Anr.**, wherein again, this Court directed the respondents to prepare a wait list for appointment to the post of Sub-Inspector (Communication) for the vacancies as advertised on 09.05.2023. The learned counsels for the petitioners submit that the said Judgment has not been challenged by the respondents.

8. On the other hand, the learned counsels for the respondents submit that in terms of the Advertisement or the Recruitment Rules, there was no mandate on the respondents to maintain a reserve list. They submit that the decision of this Court in **Subhash Chhilar & Ors. v. Union of India & Anr.**, Neutral Citation:2022/DHC/005706, wherein a similar direction was issued as the one prayed for by the petitioners in the present petition, has been challenged by the respondents in the form of a Special Leave Petition, being Special Leave Petition (Civil) Diary No(s) 35430/2023, on which the Supreme Court has issued notice.

9. The learned counsels for the respondents further contend that



the similar direction of this Court have been stayed by the Supreme Court *vide* its Order dated 27.01.2023 passed in Civil Appeal No(s). 615/2023, titled ***Union of India & Anr. v. Ravi Raj & Ors.***

10. We have considered the submissions made by the learned counsels for the parties.

11. This Court in ***Sushma Kumari*** (supra) has considered the order of stay granted in the case of ***Ravi Raj*** (supra), observing as under:

*“9. We are, therefore, of the view that the reliance by the respondents to the decision in ***Ravi Raj*** (supra) is misplaced, as the issue arising for consideration of the Court in the said case was regarding the difficulties being faced by the SSC to prepare a waiting list/ reserve panel in a situation where a number of different organizations were involved. Further, we find that the respondents do not deny the decision in ***Ashish*** (supra) where identical directions as sought in the present case were issued, has already been implemented by the SSB on 17.02.2023.”*

12. After considering the Judgment of this Court in ***Ashish*** (supra), this Court in similar circumstances in ***Sushma Kumari*** (supra) has allowed the petition filed by the petitioner therein by directing as under:

“10. In the light of the aforesaid, we allow the writ petition by directing the respondents to prepare within four weeks a wait list for appointment to the post of SI (Communication) for the vacancies as advertised on 09.05.2023. However, this wait list would be operated only after expiry of the period granted to the selected candidates to join service.

11. In case the petitioners are found to be eligible for appointment as per their merit in the wait list, the respondents will grant them appointment as per law. It is, however, made



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clear that the petitioners will not be granted any retrospective seniority and will be eligible for all benefits only from the date they are actually appointed.”

13. In view of the above, we have no hesitation in issuing a similar direction in the present set of petitions as well.

14. Accordingly, the respondents are directed to prepare, within four weeks, a wait list for appointment to the post of Constable (Driver) [in W.P.(C) 1582/2024; W.P.(C) 1839/2024 & W.P.(C) 2520/2024], Constable (Washerman)[in WP(C) 3502/2024]; Constable (Cobbler) [in WP(C) 3540/2024]; and Constable (Tailor) [in WP(C) 3543/2024] for the vacancies as advertised on 28.07.2020 and for the advertisement published in the Employment News from 12-18 November 2022. However, the wait list would be operated only after the expiry of the period granted to the selected candidates to join service. In case the petitioners are found to be eligible for appointment as per their merit in the wait list, the respondents will grant them appointment as per law. It is, however, made clear that the petitioners will not be granted any retrospective seniority and will be eligible for all benefits only from the date they are actually appointed.

15. The petitions are disposed of in the above terms. There shall be no order as to costs.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 4, 2024/Arya/as

Click here to check corrigendum, if any