



\$~47, 48 & 52

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

Date of decision: 18.03.2024

47

+ W.P.(C) 4004/2024

GOVT. OF NCT OF DELHI AND ORS.

..... Petitioners

Through: Ms. Avnish Ahlawat, Standing
Counsel with Mr. Nitesh Kumar
Singh, Ms. Laavanya Kaushik and
Ms. Aliza Alam, Advocates.

versus

VIKASH

..... Respondent

Through: Mr. Sachin Chauhan, Advocate
(through video-conferencing)

48.

+ W.P.(C) 4007/2024

GOVT OF NCT OF DELHI AND ORS

..... Petitioners

Through: Ms. Avnish Ahlawat, Standing
Counsel with Mr. Nitesh Kumar
Singh, Ms. Laavanya Kaushik and
Ms. Aliza Alam, Advocates

versus

KULDEEP

..... Respondent

Through: Ms. Esha Mazumdar and Ms. Chetna,
Advocates.

52.

+ W.P.(C) 4057/2024

GOVT OF NCT OF DELHI AND ORS

..... Petitioners

Through: Ms. Avnish Ahlawat, Standing
Counsel with Mr. Nitesh Kumar
Singh, Ms. Laavanya Kaushik and
Ms. Aliza Alam, Advocates.



versus

HANUMAN SINGH SEKHAWAT

..... Respondent

Through: Mr. Sachin Chauhan, Advocate
(through video-conferencing)

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

REKHA PALLI, J (ORAL)

CM APPL. 16370/2024 -Ex. in W.P.(C) 4004/2024

CM APPL. 16547/2024 -Ex. in W.P.(C) 4057/2024

CM APPL. 16376/2024 -Ex. in W.P.(C) 4007/2024

1. Exemptions allowed, subject to all just exceptions.
2. The applications stand disposed of.

W.P.(C) 4004/2024 & CM APPL. 16369/2024 -Stay.

W.P.(C) 4057/2024 & CM APPL. 16546/2024 -Stay.

W.P.(C) 4007/2024 & CM APPL. 16375/2024 -Stay.

3. The present writ petitions under Articles 226 and 227 of the Constitution of India seek to assail the common order dated 08.11.2023 passed by the learned Central Administrative Tribunal in a batch of four original applications including O.A. 158/2019. Vide the impugned order, the learned Tribunal has quashed the petitioners' decision to reject the candidature of the respondents by relying on their involvement in criminal cases while they were still juveniles.

4. In support of the petitions, learned counsel for the petitioners submits that the impugned order is wholly perverse as the learned Tribunal has failed to appreciate that as per the Standing Order No.



398/2010, the petitioners were required to consider the cases of the respondents on the basis of their past record, and according to para 4 thereof, the offences committed by the juveniles who were above 16 years of age at the time of commission of offence were also required to be taken into consideration for judging their suitability for appointment to the post of Constable in Delhi Police. She submits that the learned Tribunal has without considering the effect of the aforesaid standing order especially para 4 thereof allowed the original applications filed by the respondents by simply holding that their involvement in offences while they were juveniles could not be taken into consideration. Her contention, thus, being that the petitioners have acted strictly in terms of their aforesaid Standing Order which has not even been assailed by the respondents. She, therefore, prays that the impugned order be set aside.

5. On the other hand, learned counsel for the respondents support the impugned order and submit that such a Standing Order which is contrary to the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015 (hereinafter referred as 'The Act'), is *non est* and was, therefore, rightly ignored by the learned Tribunal. They contend that the learned Tribunal by relying on various decisions of this Court as also of the Apex Court which clearly state that offences committed by the juveniles are not required to be disclosed at the time of filling of the application form for appointment, has rightly allowed the respondents' original applications by directing that the alleged offences committed by them, while they were juveniles, had to be



ignored. They, therefore, pray that the writ petitions be dismissed.

6. Having considered the submissions of the learned counsel for the parties and perused the record, we find that though the learned Tribunal was conscious of the fact that the Standing Order which was the basis of the rejection order passed by the petitioners, had not been assailed, it has still proceeded to allow the original applications without examining the validity thereof. In this regard, it may be apposite to refer to para nos. 19 and 20 of the impugned order which read as under:-

“19. In view of the above, the respondents did not have the leverage to cancel the applicant's candidature on his being found unsuitable by the Screening Committee. **Although learned counsel for the respondents vehemently argued that the Standing Order of Delhi Police mentioned above has never been questioned or quashed/ struck down by any court of law,** yet we feel that rejection of the applicant's claim in the garb of his unsuitability adjudged by the Screening Committee on the basis of his past criminal record when he was a juvenile, would be against the spirit of The Juvenile Act, 2000 and 2015. (emphasis supplied)

20. In the entire conspectus of the facts and circumstances of the case and citations relied upon by learned counsel for both the parties, more particularly considering the protection given to juveniles under The Juvenile Act, we hold that rejection of the claim of the applicant on the basis of his involvement in criminal action during his life as a juvenile, cannot come in the way of his appointment for the post of Constable for which he has been duly selected by the respondents. Accordingly, we dispose of the OA (OA No. 158/2019-lead case), with the following directions:-

i) Show Cause Notice dated 03.07.2018 and order dated 21.12.2018 whereby candidature of the applicant to the post of Constable (Exe.) has been cancelled are quashed and set aside;

ii) The respondents are hereby directed to appoint the applicant on the post of Constable as per his merit and subject to his being found suitable after medical examination or any other criteria except the



one regarding juvenile acts, as discussed above; and

iii) The exercise, as ordained above, shall be completed by the respondents within a period of eight weeks from the date of receipt of a certified copy of this order. It is made clear that the applicant shall be entitled to wages only from the date he assumes charge of the post in question."

7. From a perusal of the aforesaid, it is clear that the learned Tribunal has proceeded to quash the decision of the petitioners to reject the candidature of respondents on the premise that as per the Act, the petitioners could not seek information regarding the offences in which the respondents were involved while they were juveniles, even if they were aged above 16 years at that stage. We find that the learned Tribunal has failed to consider the effect of this specific Standing Order which lays down the parameters for determining the suitability of candidates for appointment in the Delhi Police. Even though we are inclined to agree with the learned Tribunal that the petitioners cannot prescribe such criteria which are contrary to the spirit of the Act as also the various decisions of this Court and of the Apex Court, the fact remains that the Standing Order based on which the petitioners had considered the suitability of the respondents for appointment has not been examined or quashed.

8. In the light of the aforesaid, we are of the considered view that the learned Tribunal ought to have examined the validity of this Standing Order which *prima facie* appears to be contrary to the Act. We, therefore, have no other option except to set aside the impugned order and remand the original applications back to the learned Tribunal for determining the validity of the Standing Order, which



was the very basis of the petitioners' action. However, since we find that the respondents had neither sought any such prayer nor raised any grounds in support thereof, we permit the respondents to file an amended O.A specifically assailing the standing order within two weeks. Reply thereto, if any be filed by the respondents within two weeks. Rejoinder, thereto, be filed within one week thereafter. Taking into account that the matters have been pending consideration before the learned Tribunal for more than four years now, we direct the parties to adhere to the aforesaid timelines, making it clear that the learned Tribunal will not grant any additional time to them for this purpose. We also request the learned Tribunal to endeavor to decide the O.As preferably within six months.

9. List before the learned Registrar of the Central Administrative Tribunal on 06.05.2024.

10. The present petitions alongwith accompanying applications stand disposed of in the above terms.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

MARCH 18, 2024/ib