



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

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Date of decision: February 02, 2024

+ W.P.(C) 16388/2023, CM APPL. 65963/2023

(34) COMMISSIONER OF POLICE DELHI AND ANR

..... Petitioners

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

versus

PRAMIT SINGH AND ANR

..... Respondents

Through: Ms. Mayuri Raghuvanshi, Mr. Vyom
Raghuvanshi, Ms. Akanksha Rathore
and Mr. Dhruv Sharma, Advocates
Ms. Garima Sachdeva, SPC with Ms.
Divyanshi Maurya, Advocate for
UOI/R-2

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed by the petitioners challenging the order dated July 28, 2023 of the Central Administrative Tribunal, Principal Bench, New Delhi ('Tribunal' for short) in Original Application No.1662/2020, whereby, the Tribunal has allowed the O.A. filed by the respondents herein by stating in paragraph 6 as under:



“6. Conclusion:

6.1 In the light of the ratio laid down in the case of Brahmprakash Sharma (supra), we quash and set aside the impugned communication dated 13.02.2020. The respondents are directed to issue an appointment letter to the applicant within a period of two months from the date of receipt of a certified copy of this Order. The said appointment letter shall be issued not only by registered post but also by any other mode as deemed fit by the respondents who shall ensure that a clear proof of delivery to the applicant is kept on record. After joining his post, the applicant would be entitled to payment of wages etc. He would be entitled to all consequential service benefits only on a notional basis with reference to the date of joining of his immediate junior in the Selection List.”

2. The grievance of the respondent no.1 before the Tribunal was primarily with regard to cancellation of his appointment to the post of Sub-Inspector in the Delhi Police.
3. There is no dispute that the respondent no.1 had applied for selection process for the post of Sub-Inspectors (Exe) in the Delhi Police and was selected for the post of Sub- Inspector (Exe)
4. The issue before the Tribunal was that, a Office Communication dated February 13, 2020 was issued to the respondent no.1 pursuant to Show Cause Notice cancelling his candidature. The office communication dated February 13, 2020 issued by the Delhi Police reads as under :

“Sub:- Regarding Direct Recruitment to the Post of S.I. (Exe.) in Delhi Police - 2017 - cancellation of candidature.

*You, Shri Pramit Singh (Roll No. 2201127844),
were provisionally selected for the post of Sub-*



Inspector (Exe.) in Dethi Police through SSC CPO Recruitment- 2017, subject to verification of character & antecedents and final checking of documents.

You were directed vide this office Memo No. 3895-4594/Rectt. Cell/NPL dated 17.5.2019 to report in Recruitment Cell, NPL, Kingsway Camp, Delhi- 110009 on 31.05.2019 to collect your offer of appointment letter with regard to joining for the said post, but you failed to attend the office for collecting your offer of appointment letter on the scheduled date. Accordingly, a Show Cause Notice issued vide this office memo No. 10180/Rectt. Cell/NPL dated 25.08.2019 for cancellation of your candidature for the reasons mentioned above. In response to the Show Cause Notice, you submitted your reply which was received through post on 09.09.19, stating therein that you did not receive this office letter dated 17.5.2019. You stated that your father was in continuous contact with Police Headquarters and tried to contact office staff of Recruitment Cell, NPL on phone and WhatsApp repeatedly after 5th July 2019, but could not contact anyone. You further stated that you enquired about date of joining by writing letters to PHO in the month of August 2019 and now requested for issue of appointment letter to join Delhi Police. You were also given opportunity for personal hearing on 11.11.2019 vide this office letter No.11883/Rectt. Cell/NPL dated 25.10.2019 as well as through e-mail dated 4.11.2019. In the personal hearing you repeated the same version as mentioned in your reply. In your reply to the Show Cause Notice as well as in personal hearing, you have no cogent reason/ ground for not joining Dethi Police during the stipulated period.



Therefore, the Show Cause Notice issued to you vide this office No. 10180/Rectt. Cell/NPL dated 25.08.2019 is confirmed and your candidature for the post of Sub-Inspector (Exe.) in Delhi Police-2017 is hereby cancelled.”

5. The stand of the respondent no.1 before the Tribunal was that, he did not receive the offer of appointment issued by the Delhi Police appointing him as SI (Exe) in the Delhi Police. This aspect has been noted by the Tribunal in paragraph 2.9 of the impugned order.
6. It is also the case of the respondent no.1 that, he submitted letters to the authorities in Delhi Police requesting them to issue an appointment letter, but his request was not accepted, subsequently he received the Show Cause Notice dated August 26, 2019.
7. Be that as it may, the case of the petitioners herein before the Tribunal was that the rejection of the candidature of the respondent no.1 was because of the fact that, he did not accept the terms of the appointment.
8. The Tribunal in paragraphs 5.1 onwards while allowing the OA, has stated as under:

“5.1 Having heard learned counsel for the parties, it is noticed that in the first round of litigation this Tribunal found neither arbitrariness nor discrimination in regard to the Stipulation of a fixed period within which a successful candidate has to report for joining his post. The extract of Ajay Kumar (supra) would be exactly applicable here also.

5.2. The applicant had filed an appeal and a medical certificate obtained from the Government Hospital which stated that the DNS has been rectified on undergoing surgery. Pertinently, the said surgery was done on 24.04.2018. However, the



respondents did not permit the applicant to undergo a Review Medical Board. When the respondents declared the list of rejected candidates on 06.08.2018, along with the reasons furnished therein, the applicant discovered that his name was included in the said list with a remark that his candidature was rejected being a post operative case. The relevant part of the decision of Hon'ble High Court of Delhi in Pramit Singh vs. Union of India and others, WP (C) No.8752/2018 decided on 19.09.2018, referred and relied upon by the applicant, is reproduced below:

“6. In view of the captioned Guidelines issued by the respondents, we are of the opinion that the respondents ought to have afforded an opportunity to the petitioner to appear before a Review Medical Board after 23.05.2018 i.e. on expiry of one month after he had undergone a surgery for DNS, for examining him qua the grounds mentioned in the impugned memorandum dated 14.04.2018 and if he was not found fit, only then turned down his candidature. In our view, any rejection prior thereto by refusing to grant him an opportunity to appear before the Review Medical Board was not justified or in consonance with the own Guidelines laid down by the respondents.

7. Accordingly, the present petition is allowed and the impugned list dated 06.08.2018 qua the petitioner is quashed and set aside. The respondents are directed to call the petitioner for a Review Medical Board within four weeks underwritten intimation to him. The petitioner shall appear in the Review Medical Board at the venue and on the date and time as conveyed. In case, the petitioner is found fit, he shall be appointed to the subject post based on his merit position in the selection process. The entire process shall be completed within eight weeks.

8. The petition is disposed of alongwith the pending application.”

5.3 In the counter reply filed by the respondents the Appointment Letter has been quoted (Annexure R-1), which reads as under:



“Subject:- Recruitment to the post of Sub-Insp. (Exe) in Delhi Police-2017.

Reference your Application Form, on the subject cited above. You are hereby to report to Recruitment Cell, New Police Lines, Kingsway Camp, Delhi - 110009 on 31.05.2019 at 10 AM Sharp along-with the following documents in original and attested copies (two sets) to collect offer of appointment letter with regard to your joining:-

Sl. No.	Details of Documents
1.	Educational Certificates ie. Matric, 12, Graduation & above.
2.	OBC Certificate on the prescribed format (as mentioned in the advertisement issued by the competent authority (for OBC candidates only).
3.	SC/ST certificate issued by the competent authority. (for SC/ST candidates only).
4.	Sports Certificates, if applicable.
5.	Hills area Certificate, if applicable.
6.	No Objection Certificate (N.O.C) already obtained before the submission of Application
7.	Form from the concerned department in case the candidate was working with Government Department.
8.	Resignation / Discharge letter from previous department.
9.	Commando certificate, (if selected against vacancy of Ex-servicemen reserved for special category)
10.	Pension Payment Order (for P.P.O) for Ex-servicemen candidates only.
11.	Agreement Form duly attested by Class 1 Magistrate. (Blank Agreement Form may be collected from Recruitment Cell/NPL, immediately, in case the same has not been collected earlier).
12.	Certificate of Character. (Blank Form may be collected from Recruitment Cell/NPL immediately, in case the same has not been collected earlier.
13.	Undertaking (will be given at the time of offer of appointment letter).
14.	Driving License for LMV (Motor Cycle & Car)
15.	10 Passport size photograph.

5.4 Since the applicant did not turn up, he was issued a SCN (Annexure R-2) wherein the address of the applicant reads as under:

“Shri Pramit Singh (Roll No.2201127844) S/o Shri Satya Pal Singh, R/o SC-230A, Shastri Nagar, P.S. Kavi Nagar, Gaziabad, U.P.-201002.”

5.5 In response to the said SCN a detailed reply was sent by the applicant, which is reproduced as under:



*“Subject- Regarding Direct Recruitment to the post of S.I.(Exe.) in Delhi Police-2017- Show Cause Notice of cancellation of candidature
Sir,*

Refer your letter no 10180/Rectt. Cell/NPL dated New Delhi the 26-8-2019 by which an explanation is sought from me for cancellation of candidature for the post of Sub Inspector in Delhi Police. In this regard I would like to submit that I didn't receive any office memo dated 17-5-2019 which you cited in the show cause notice. My father was in regular touch with the Delhi Police Hq so when he come to know that the training of the candidates has been started, he contacted to DCP (Estt.) hq on its land line phone number 011-23490226 from where a mobile contact of Mr. Amit Rai, Sub-Inspector was given to us by Mr. Varghese Thomas, S.O. regarding any enquiry of the recruitment. Mr. Amit Rai, Sub-Inspector was contacted by my father on 5th or 6th July 2019 but Mr. Rai didn't pick up the phone. Finally Mr. Rai could be contacted on 8th July 2019 and Mr. Rai told that training of the newly selected sub inspectors has been started and didn't tell any date or letter number by which Delhi Police tried to contact me for joining of training and collect the offer of appointment. Mr. Amit Rai was informed by us that no any communication regarding joining letter or appointment letter is received so far, Mr. Rai informed that more than 100 candidates didn't join and each of the candidates will get a show cause notice from the Delhi Police and advised me to file a suitable reply. Meanwhile I sent a Whatsapp Message (A screen shot is enclosed) to Mr. Amit Rai, Sub Inspector on 10-8-2019 and wrote a letter on 13-8-2019 (A copy of which is enclosed with the cover envelope of letter) to Joint Commissioner of Police (Recruitment/HR) Delhi Police Hq which received back with the remark that Joint Commissioner HR/ Recruitment office is not situated in PHQ on 16-8-2019. After getting my letter back I wrote a separate letter to Commissioner of Police, PHQ, Delhi Police on 27-8- 2019 (A copy of letter along with the postal receipt is enclosed herewith) by which it was requested to intimate the date of joining and issue the appointment letter.

All above circumstances show that I am eagerly waiting for the appointment letter from the Delhi Police but due to



unavailability of appointment letter and communication regarding joining I could not join the Delhi Police as Sub Inspector. Therefore you are requested to issue appointment letter so that I may join the services of Delhi Police and you are also requested to withdraw the notice issued to me to cancel my candidature.”

5.6 On careful perusal of the records it is revealed that the Order dated 13.02.2020 completely ignored the reply filed by the applicant to the SCN along with the fact that the applicant was never in receipt of the letter/intimation for reporting to the Recruitment Cell NPL Kingsway Camp, Delhi 110009 on 31.05.2019 and was consistently following up for issuance of his appointment letter. The respondent No.1 has not placed on record any document to establish that the joining letter/intimation was ever delivered to the address of the applicant on the contrary the postal receipt shared by the counsel for the respondent No.2 vide email dated 29.01.2021 reflects that the appointment letter was posted to the incomplete address with the wrong pin code i.e. only “Ghaziabad 201001” whereas the records reflect that the complete address of the applicant is “SC-230A, Shastri Nagar, P.S. Kavi Nagar, Ghaziabad” having pin code 201002. Therefore, in absence of delivery of the appointment letter the applicant cannot be penalized to the extent of depriving him of employment. Further, the respondents relied on email for the purpose of calling the applicant for the hearing dated 11.09.2019 but the appointment letter was never issued through email or any other way of communication except for the postal service.

5.7 Respondent No.1 has confirmed the bonafide of the applicant and his father in following up with respondent No.1 for issuance of the appointment letter as the phone number on which the matter pertaining to issuance of appointment letter was being discussed, admittedly belonged to a Sub Inspector who was placed in DCP/Recruitment NPL till September 2020.

5.8 Learned counsel has also drawn attention that the pin code



mentioned in the postal receipt is incorrect. A reference is drawn to decision rendered by Hon''ble High Court of Delhi in Brahmprakash Sharma vs. Union of India and others, WP(C) No.9567/2018 decided on 16.09.2019 wherein it is held as under:

“17. The basic facts which we have noted in the foregoing paragraphs are undisputed as far as they relate to the petitioner appearing in the examination and his participation in the interview and his being selected. It is also undisputed that an appointment letter was issued in his favour on 03.10.2016, which got delivered to someone else on 07.10.2016. This fact is well established on the basis of two endorsements made by the Post Master, PO : Okhla Industrial Estate. The only question which arises for our consideration is as to whether the petitioner can be penalized to the extent of depriving him of his employment as he did not report to the Department on time.

18. We find that the petitioner did not receive the appointment letter which could also have been sent by the concerned department through email address contained in the application form; or the petitioner could have been informed about his selection on telephone as well. OM dated 01.01.2014 in fact reads in favour of the candidate. The said OM states that a registered reminder may be sent immediately after the expiry of 5 weeks” time, „if necessary”. In the context of the purpose to be achieved, the term „if necessary” has to be given a wide interpretation and not a narrow one. In our view, this would mean that in case the person does not respond after the expiry of period of 5 weeks, deliberate efforts should be made to inform the person.

19. The word „if necessary” should also be interpreted to mean that in case a candidate has responded within the period of five weeks but is still not taking steps to join the department after being duly served with the copy of the appointment letter, in such case, a reminder may not be issued by the department.



The relevant para of the impugned order reads as under :

“7. At least five weeks time from the date of issue of the Offer of Appointment should be given to the candidate to respond to the Offer of appointment. A registered reminder may be sent immediately after the expiry of five weeks time, if necessary. If the candidate does not join duty within 3 months from the date of the first letter, his candidature may be cancelled. However, if the candidate further makes a request for extension of joining time and on consideration by the Cadre Unit, it is decided to grant him extension beyond 3 months, he/she may be asked to join within the stipulated time and he/she may also be informed that on joining the post his/her seniority would be determined as per provision made in DOP&T O.M. No.9/23/71-Estt. (D) dated 6.6.78 as amended vide O.M. No. 35015/2/93-Estt(B) dated 9.8.1995.”

20. For the reasons aforesaid, we set aside the order of the Tribunal and allow the OA. Counsel for the respondent, on instructions of Mr.M.K. Bharti, Deputy Director, Pay & Accounts Department, GSI, ER, Kolkata who is present in court submits that the petitioner may be directed to join after a period of 3 months. The request of 3 months” time is declined.

21. It is directed that the petitioner will join the office of Director General GSI, Eastern Region, Kolkata on or before 15.10.2019. The statement of counsel for the petitioner that the petitioner would not press either for seniority or back wages is taken on record; and it is made clear that the petitioner shall not press for seniority and back wages.

22. With these directions, the writ petition is allowed. The pending application also stands disposed of.”

5.9 Learned counsel for respondents relies upon the decision rendered in the case of Ajay Kumar (supra) and more specifically its para 11 which is reproduced in para 3 above.



The decision rendered in Ajay Kumar (supra) cannot be applied to the present facts of the case inasmuch as the said Court dealt with the issue of interpretation of 28.08.1997 wherein the issue pertained to the grant of extension in joining, however, in the present case the applicant did not receive the joining letter. Therefore, the judgment cannot be applied to the present facts of the case. In the instant case, no clear proof of service of the Appointment Letter has been brought on record. Moreover, there is a whatsapp message at Annexure-6, which reads as under:

*“Mr. ROY,
Good morning,
I am S P SINGH Additional
Commissioner, Commercial Tax, in
Uttar Pradesh.
I got your number fro Mr Vergese,
JCP
You are not taking my call please call
Me.*

*19 AUGUST 2019
Please refer candidature of my
Son Pramit Singh (Roll Number-
2201127844) for the post of
Sub-Inspector through SSC
CPO Examination 2017, no any
appointment letter is received so far
from the Delhi Police Hqrs. Kindly look
into the matter and let me know the
reason of delay a separate letter is
also being sent to higher authorities
of Delhi Police in this regard.
Regards
S P Singh,
Additional Commissioner,
Commercial Tax, Gorakhpur, Uttar*



Pradesh.”

9. From the above, it is noted that the Tribunal was primarily of the view that the petitioners herein have not placed any document on record to establish that the joining letter/ intimation was delivered to the address of the respondent no.1. On the contrary, a postal receipt shared by the counsel appearing for the petitioners vide email dated January 29, 2021, reflects that the appointment letter was posted to an incomplete address with the wrong pin code with “Ghaziabad 201001” only, whereas the records reflect that the complete address of the respondent no.1 is “SC-230A, Shastri Nagar, P.S. Kavi Nagar, Ghaziabad having pin code 201002”.

10. At this stage, Mrs. Ahlawat, learned Standing Counsel appearing for the petitioners would submit that a communication sent to the respondent no.1 depicts the right pin code i.e. 201002. In this regard, she has placed before us the dispatch register.

11. Be that as it may, the Tribunal was of the view that, as the appointment letter was not delivered to the respondent no.1, he cannot be penalised by depriving him of his employment.

12. On a specific query to Mrs. Ahlawat, whether the postal authorities have given the delivery report that the consignment has been delivered to the respondent no.1, the answer is in the negative. She submits that, as per the information given by the postal authorities, they have weeded out the record.

13. If that be so, the conclusion which has been arrived at by the Tribunal cannot be contested, in as much as, nothing has been placed on record by the petitioners to show that the appointment letter which was sent has been received/delivered to the respondent no.1. So, it follows, the judgment of the



Tribunal is required to be upheld.

14. At this stage, Mrs. Ahlawat states that the respondent no.1 is at liberty to approach the DCP Recruitment Cell, New Police Lines, New Delhi, for receiving the appointment letter. She also submits that after the appointment letter is issued, the respondent no.1 is required to produce documents to show his eligibility to the post, by filling the forms/documents.

15. The learned counsel for the respondent no.1 submits that, every formality shall be followed by the respondent no.1.

16. In view of our above conclusion, we find no merit in the petition. The petition alongwith the pending application is dismissed.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

FEBRUARY 2, 2024/So...