



2025:DHC:5174-DB



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

Date of decision: 02.07.2025

+ W.P.(C) 7994/2025 & CM APPL. 35038/2025

THE CHAIRMAN, STAFF SELECTION COMMISSION

.....Petitioner

Through: Ms.Saumya Tandon, CGSC
with Mr.Gaurav Singh Sengar,
Adv

versus

BALVENDRA KUMAR NAIN & ORS.

.....Respondents

Through: Mr.T.D. Yadav, Adv. for R-1
Ms.Avshreya Pratap Singh
Rudy, SPC for UOI with
Ms.Usha Jamnal & Ms.Harshita
Chaturvedi, Advs

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed challenging the Order dated 18.09.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi, in O.A. No. 2967/2024, titled ***Balvendra Kumar Nain v. The Chairman, Staff Selection Commission & Ors.***, allowing the said O.A. filed by respondent no. 1 herein, with the following directions:-

*“8. Given the above, this OA is disposed of
with the direction to the respondents i.e. SSC*



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to re-visit the result of SI - Ex-serviceman (special category). Respondents shall consider the case of the applicant for appointment in Special Category, as per merit achieved by him, since he is qualified for the same. The aforesaid be done within two months from the date of receipt of certified copy of this order.”

2. The petitioner had issued Recruitment Notification No. HQ-PPII03(3)/1/2023-PP_II on 22.07.2023 for the post of Sub-Inspector (Executive) in the Delhi Police and Sub-Inspector in CAPFs, 2023. The vacancies were earmarked for the Ex-Servicemen (ESM)-Special Category, for which possession of a Commando Course Certificate was mandatory. Certain candidates who were not eligible for being considered for the said post, which was so reserved, by mistake or otherwise, applied for the post under the said category.

3. It is not disputed that the respondent no. 2 - Border Security Force, committed an error in the verification process and allowed persons who were not eligible under the above reserved category to be considered for the same.

4. On completion of the selection process, the petitioner declared the result on 05.04.2024. After declaring the result, the dossiers of the selected candidates were forwarded to the respective User Departments, who were to further undertake the detailed scrutiny of the documents of the candidates. It was at this stage that it was realized that certain candidates who were not eligible for the reserved post, had been considered and nominated for the same.

5. Aggrieved by his non-selection, respondent no. 1 approached the learned Tribunal by way of an O.A. The learned Tribunal has allowed



the above O.A. observing as under:

“5. Not just in the instant OA, recently there have been other cases also, wherein similar submissions were made. We have noticed that in this very examination, there has been a botch up at the end of the recruiting agency/ SSC. At least two other OAs i.e. OA No.1485/2024 and OA No.1488/2024 and one Writ Petition were filed wherein the Tribunal and the Hon'ble High Court has directed the SSC to take the necessary corrective measures.

6. Learned counsel for the applicant draws attention to Page 77 – Annexure (A4), which is a letter dated 03.05 2024, an undertaking by one selected candidate Admitting his mistake, that he is not eligible for appointment in the ESM – Special Category since he does not possess requisite qualifications for the same. Due to a misunderstanding the candidate had applied under the Special category instead of the General category.

7. There was a mistake at the end of few candidates who filled up the application under wrong category, however, the SSC which is a recruitment body cannot be absolved of its duties to carefully scrutinize the applicants during the selection process.”

6. The learned counsel for the petitioner vehemently submits that the learned Tribunal has failed to appreciate that in terms of Clause 15.3 of the Notification calling for the applications to the above post, it had been clearly mentioned that the result once published shall be final, and if any post remains unfilled due to the non-availability of suitable candidates, non-joining of candidates, or any other reasons, the said post will not be filled up in that recruitment year and the User Organization may carry forward those vacancies to the next recruitment cycle. She submits that Clause 16.22 of the said Notification further



places an express bar on the creation of a waitlist. Placing reliance on the Judgment of the Supreme Court in ***Vallampati Sathish Babu v. State of Andhra Pradesh and Others***, (2022) 13 SCC 193, she submits that in similar circumstances, the Supreme Court had set aside the order directing the unfilled vacancies to be filled up by the persons next in merit.

7. We have considered the submissions made by the learned counsel for the petitioner; however, we do not find any merit in the same.

8. In the present case, admittedly, certain posts were reserved for the ESM Special Category candidates, for which possession of a Commando Course Certificate was mandatory. In the document verification, however, persons not possessing such qualifications were also considered towards the reserved posts. This was an illegality committed in the selection process. These candidates should have been declared not eligible at this stage itself. By allowing them to further participate in the selection process, the entire selection process stood vitiated.

9. The respondent no. 1 cannot be denied a fair opportunity of being considered for the post due to the illegality committed by the petitioner/User Department. The learned Tribunal has, therefore, issued the above direction, directing the petitioner to revisit the result of the Ex-Servicemen Special Category candidates, and in case respondent no. 1 herein is found fit for appointment to the said post as per the merit achieved by him, to give him the appointment.

10. This is not to operate a waitlist, which is prohibited in terms of



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Clause 15.3 as well as Clause 16.22 of the Notification, but to undo a wrong which has been committed to respondent no. 1 and other candidates who were arbitrarily and unlawfully denied a fair opportunity to be considered for the post due to the fault of the petitioner/User Department. The Judgment of the Supreme Court in ***Vallampati Sathish Babu*** (supra), can also be of no assistance to the petitioner for the said reason itself. In the said case, the person who was in the selection list had failed to appear, because of which a vacancy remained. The Supreme Court held that in such circumstances, and in the absence of a provision for a waitlist, a direction to offer appointment to the next eligible candidate could not have been sustained. In the present case, as noted hereinabove, there is an illegality in the selection process itself, because of which the selection process stood vitiated and the result has to be revisited by the petitioner. There is no direction by the learned Tribunal to operate a waitlist in the present case.

11. Accordingly, we find no merit in the present petition. The same is dismissed. The pending application also stands disposed of.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 2, 2025/rv/ik

[Click here to check corrigendum, if any](#)