



2025:DHC:9428-DB



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

Reserved on: 02.09.2025
Pronounced on: 29.10.2025

+ **W.P.(C) 5880/2022 & CM APPL. 17615/2022, CM APPL. 23643/2022**

VINOD KUMARPetitioner
Through: Mr.R. S. Kaushik and Mr.Basab
Sengupta, Advs.
versus

STAFF SELECTION COMMISSION AND ORS.
....Respondents
Through: Mr.Akash Vajpai, Adv. for R-2.
Mr.Hiren Sharma and
Mr.Saurabh Goel, Advs. for R-
3 to R-14.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed challenging the Order dated 04.03.2020 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 3757/2014, titled ***Vinod Kumar v. The Staff Selection Commission & Ors.***, whereby the O.A. filed by the petitioner herein was dismissed.



FACTS OF THE CASE

2. The brief facts giving rise to the present petition are that in the year 2013, the respondent no. 1 published a Notification dated 16.03.2013 for Recruitment of Sub-Inspectors in Delhi Police, CAPFs and Assistant Sub-Inspector in CISF and Intelligence Officer in NCB Examination, 2013.

3. As per the said Notification, there were 330 vacancies for the post of Sub-Inspector, 10% of which were reserved for Ex-Servicemen. The category-wise break-up of vacancies is as under:

<u>Category</u>	<u>UR</u>	<u>OBC</u>	<u>SC</u>	<u>ST</u>	<u>Total</u>
<i>Open</i>	161	58	29	16	264
<i>Departmental</i>	17	09	05	02	33
<i>Ex-Servicemen</i>	17	09	05	02	33
<i>Total vacancies</i>	195	76	39	20	330

4. Further, out of the 10% posts (33 in number) meant for Ex-Servicemen, 50% thereof (16 in number) were reserved for the following:

- “(i) Having served in the Special Force NSG (Special Action Group)*
- (ii) Having received a QI “Qualified Instructors” grading in the commando course*
- (iii) Officers from the Navy/Air Force who have worked in the specialized commando type units.”*

5. In pursuance of the said Notification, the petitioner, an Ex-Serviceman belonging to the OBC category, applied for the post of Sub-Inspector (Exe.) Male in the Delhi Police. It is the case of the petitioner that he has certificates of Commando Course and Special Action Group in respect of his services in the Special Force NSG, and,



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therefore, he falls under the 50% special quota reserved in the 10% quota for Ex-Servicemen, mentioned hereinabove.

6. It is the case of the petitioner that, despite appearing in the Written Examination, Physical Standard Test, Medical Examination, and the Interview conducted during the recruitment process, he was not selected and his name did not appear in the list of 16 candidates finally selected in the above-mentioned sub-category of Ex-Servicemen.

7. The petitioner claims that upon inquiry from the competent authority regarding his non-selection, he was informed that his candidature was rejected as he did not possess certificates of/ for serving in the special Force NSG.

8. Aggrieved thereby, the petitioner filed the above O.A. before the learned Tribunal seeking his selection to the post of Sub-Inspector (Exe.) Male in the Delhi Police under the OBC and Ex-Serviceman quota.

9. In the Counter Affidavit filed by the respondents before the learned Tribunal, the respondent no.1 contended that the marks of the last selected candidate for the post of Sub-Inspector (Exe.)(Male) in the Delhi Police in the petitioner's category were 154.75, whereas the petitioner scored 133.25 marks and was, therefore, not selected.

10. During the pendency of the O.A., the petitioner filed an application dated 11.09.2017 under the Right to Information Act, 2005 (hereinafter referred to as, 'RTI Act'), seeking the Commando Certificates of the 16 candidates who had been selected. *Vide* Reply dated 27.09.2017, the petitioner had also filed M.A. No. 4315/2017 to



place on record the documents received by him under the RTI Act, which, in the submission of the petitioner, showed that several of the 16 candidates who were selected, were not entitled to be appointed in the sub-category of Ex-Servicemen mentioned above. The said application was allowed by the learned Tribunal *vide* its Order dated 28.05.2019.

11. The petitioner also filed M.A. No. 37751/2019 seeking impleadment of these 16 candidates as party/respondent in the O.A. The same, however, remained pending before the learned Tribunal at the time of passing of the Impugned Order. The petitioner has, however, impleaded these candidates in the present petition as the respondent nos. 3 to 14. They were served with the notice of this petition. On 01.10.2014, they appeared in person and stated that they shall abide by the submissions made by the learned counsel for respondent no. 1 and do not seek to file any separate reply.

12. The learned Tribunal, by its Impugned Order, dismissed the said O.A., holding as under:

“8. The applicant is harping upon some information said to have been furnished to him, in reply to an application filed under the Right to Information Act. Nowadays, instances are galore, wherein half hearted questions are put in the applications and when the information commensurate with the questions is furnished, inferences are drawn. It is only when the accurate information is placed before the Tribunal, that too, by impleading the concerned party, that a possibility would exist for adjudication of the matter effectively.

9. The OA discloses the manner, in which the applicant was undertaking a roving inquiry



into the entire selection process, Notwithstanding the manner in which the applicant is pursuing the proceedings, we would have certainly gone into the detail, had it been a case where, the applicant would stand to benefit if the selection of the named persons is set aside. It has already been mentioned that the last selected candidate in the Commando Ex-Servicemen OBC category secured 154.75 marks whereas the applicant secured 133.25 marks. The difference is almost of 20 marks. In a stiff competition, candidates miss the selection just with a fraction of a mark. We have also seen the record, placed before us, by the respondents and do not find any lapses, The OA has virtually assumed the character of a writ of quo warranto, since the applicant is nowhere near the benchmark.

10. We do not find any merit in the OA and, accordingly, the same is dismissed.”

13. Being aggrieved by the same, the petitioner has filed the present petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

14. The learned counsel for the petitioner submitted that the petitioner belongs to the OBC category; possessed the relevant certificates of Commando Course and Special Action Group; had cleared the requisite examinations and interview, and; fulfilled the qualification criteria, yet he was not selected by the respondent nos. 1 and 2.

15. He submitted that the last selected candidate in the Commando Ex-Servicemen Category, who secured 154.75 marks, did not possess



the Commando Course Certificate and thus, was not eligible for his selection under the said category. He further submitted that from a perusal of the Status Report dated 12.11.2022 of the official respondents, it is clear that a majority of the selected candidates under the Ex-Serviceman Commando Category, did not possess the relevant certificates. He submitted that the information obtained under the Right to Information Act, 2005, also reveals that several of the selected candidates did not have the requisite qualifications as provided in the exam notification. He submitted that candidates holding NSG Logistics Group Certificate have been selected, even though the same does not qualify the requisite Special Action Group criteria, as was required in the eligibility conditions.

16. He submitted that one candidate did not join service and one could not produce the relevant Commando Certificate, resulting in withdrawal of his appointment letter. Accordingly, the petitioner is entitled to be selected against the vacancies created due to non-joining and also against the ineligible candidates, as it was incumbent upon the respondents to fill the 50% of Ex-Servicemen quota reserved for the Commando Category.

17. The learned counsel contended that it is a settled legal proposition that when something is required to be done in a particular manner, it shall be done only in that manner or not at all. He submitted that if the mandatory selection requirement has not been duly complied with, such selection is void *ab-initio*.

18. Placing reliance on the judgment of the Supreme Court in **Saurav Yadav v. State of U.P.**, (2021) 4 SCC 542, the learned counsel



contended that the petitioner can be considered even for the UR category posts, if eligible UR category candidates are not available.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE RESPONDENTS

19. The learned counsels for the respondents submitted that there was a proper procedure laid down by the respondent no.1, which was to be mandatorily followed by each candidate. It was submitted that scrutiny of the application of a candidate was not done initially, and all the candidates meeting the required criteria as per their application form, were called for the tests and the interview. It was submitted that the verification of document was only done at the stage of interview. It was submitted that as the respondent nos. 3 to 14 had cleared the exams, they were called for an interview, where their documents were verified and they were sent to the Recruitment Cell of the Delhi Police for the purpose of joining the service.

20. It was submitted that the petitioner belongs to the OBC category and had secured 133.25 marks, whereas the cut-off marks in the OBC (Ex-Servicemen- except Commando) category is 230.50 and in the OBC (Ex-Servicemen- Commando) category is 154.75 marks. Therefore, even if the candidature of certain applicants was to be cancelled, there were still other candidates higher than the petitioner in the merit list, who also fulfilled the requirement of possessing the required Commando Certificates. It was contended that, therefore, the selection process by the respondents herein was not arbitrary, and that



the petitioner had scored lesser marks than the cut-off marks.

21. It was contended that in terms of Note III of the Corrigendum F.No.3/1/2013-P&P-II dated 09.04.2013, issued by the respondent no. 1, it was incorporated in the advertisement that, in case of sufficient number of Ex-Servicemen candidates under categories (i) to (iii) not being available, the unfilled vacancies were to be filled from amongst other available Ex-Servicemen candidates. He submits that therefore, no fault can be attributed to the respondent no. 1 for offering the posts to more meritorious candidates than the petitioner.

22. The learned counsel for the respondent nos. 3 to 14 adopted the submissions of the learned counsel for the respondent no. 2.

ANALYSIS AND FINDINGS

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

24. It is an admitted position that 10% of the posts of Sub-Inspector advertised, that is, 33, were reserved for Ex-Servicemen. 50% of these 33 reserved posts, that is, 16 posts were reserved for categories (i) to (iii) for the following categories:

- “(i) *Having served in the Special Force NSG (Special Action Group)*
- (ii) *Having received a QI “Qualified Instructors” grading in the commando course.*
- (iii) *Officers from the Navy/Air Force who have worked in the specialized commando type units.”*

25. The learned counsel for the respondent no. 2 has filed a Status Report dated 12.11.2022 before this Court, wherein the respondent no.



2 admits as under:

“2.5(a). In reply to Para 2.5(a) it is submitted that after receiving dossiers of the finally selected candidates to the post of SI in Delhi Police from the SSC, all the candidates were called for completion of codal formalities. The candidature of candidates Samesh Kumar (Roll No. 3003506513) and Pankaj Kumar (Roll No. 7204701327) (Their names are mentioned in the Memo of parties as respondent) mentioned at Sl. No. 08 & 16 at Pg. No. 191 of the Writ Petition, were cancelled vide office order dated 05.03.2015 and 04.05.2016 respectively on the ground that they did not report in Recruitment Cell to collect their appointment letters. Consequently, under these circumstances their discharge book/ certificate are not available with Delhi Police. However, both of them applied under **category 'I' of Special Quota of Ex-Servicemen for Delhi Police in the application form filled with SSC**. The copies of the application form are annexed here as **Annexure R3 & R4 respectively**.

2.5(b). In reply to Para 2.5(b) it is submitted that candidate Jatan Singh (presently posted in New Delhi District as SI) (Roll No. 3011506433) PIS No. 16140313, tabulated at Sl. No.11 at Pg. 191 of the CWP (i.e. Respondent No.10 in the Writ Petition), after going through the character Roll/ Fouzi Missal of the said candidate and relevant record it revealed that he had filled his **category 'I' of Special quota Ex- Servicemen for Delhi Police** in the application form with the SSC. He has given his written statement stating therein that he had done only Section Commander (Infantry) course and he does not have any special commando certificate and he was selected by the SSC as per the recruitment rules. A copy of the statement of Jatan Singh (Respondent No.10) along with Section Training Course Certificate is annexed here as **Annexure R5**.



2.5 (c). *In reply to Para 2.5 (c) it is submitted that candidates Sanjeev Kumar (Roll No. 1601000176) (Respondent No.3 in the CWP) (who is presently posted in Security Unit as SI), (ii)Shambhu Kumar Jha (Roll No. 16010006741) (Respondent No.4 in CWP who is presently posted in North District), and (iii) Jasmer Singh (Roll No. 18011000734) (Respondent No. 06 in CWP, he retired on 31.03.2020 after attaining the age of superannuation while posted in North West District), tabulated at Sl. No. 2, 3, & 5 respectively at Pg. 191 of the Writ Petition, it is submitted that after going through the relevant records from their concerned unit/ District, it is confirmed that they were selected to the post of SI(Exe) in Delhi Police under Ex-Servicemen category special category 'commando'.*

As per records, they had filled their category '1' of Ex-servicemen special quota for Delhi Police in the application form with the SSC. Out of above these candidates, Jasmer Singh, Ex-SI, Belt No. D/5706 has been retired after attaining the age of superannuation on 31.03.2020.

*Candidate Sanjeev Kumar (Respondent No.3) and Shambhu Kumar Jha (Respondent No. 4 in CWP) have given their written statement stating therein that they were finally selected by SSC as per Recruitment Rule, however, they had not undergone any special commando course. The copies of their applications forms submitted by them with their statements are annexed here as **Annexure R6 & R7** respectively.*

2.5 (d). *In order to examine the service record of candidate Santosh Kumar (Roll No. 3013500474) (Respondent No.11 in WPC) who is presently posted in Special Branch as SI, the character Roll/Fouzi Missal etc., have been gone through and no documents confirms that he was selected to the post of SI (Exe.) in Delhi Police under Ex-Servicemen category 'commando' category.*



*It is pertinent to mention here that as per records, he had filed his category '1' of Special Quota Ex-Servicemen for Delhi Police in the application form with the SSC. He has given his written statement stating therein that he was finally selected by the SSC as per the Recruitment Rules, however, he had not undergone any special commando course. A copy of his application form dully filled by him along with his written statement is annexed here as **Annexure R8**.*

2.5(e). *With respect to candidate Harish (Roll No. 2201057987) (Respondent No. 07 in the Writ Petition) it is submitted that on selection to the higher post in Income Tax Department, he has technically resigned from Service while posted at North West District and the same was accepted vide order dated 15.12.2016. As per record available with Delhi Police a certificate was issued to Harish, Ex-PORTAL, No. 123943-R by Sh. Ajay Kapoor, Commander, Staff Officer, Naval Pension Office, Mumbai certifying therein that during his tenure, he served in Indian Naval Marine Commando Flight/Squadron and he has vast experience and expertise in Special Helicopter marine commando missions facilitating different categories. A copy of the same is annexed here as **Annexure R-9**.*

2.5 (f). *In reply to Para 2.5(f), it is submitted that after going Through the Character Roll and Fouzi missal of candidates Deepak Kumar (Roll No. 4410007799) (Respondent No.12 in CWP who is presently posted in Dwarka Distt.), Naresh Kumar (Roll No. 7002700361) (Respondent No. 13 in CWP and presently posted in Dwarka Distt.) and Dinesh Kumar (Roll No. 7204700136) (Respondent No. 14 in CWP and presently posted in North East Distt.) tabulated at Sl. 13,14 and 15 at Pg. 191 of the writ petition, only an NSG certificate issued to Candidate Deepak Kumar by Group Commander, Manesar was found appended in his service record. A copy of the same is annexed here as*

**Annexure R10.**

No document which confirms that candidates Naresh Kumar and Dinesh Kumar were selected / appointed to the post of SI (Exc.) (Male) under Ex-Servicemen Category Special category 'Commando' is found appended in their service records. However as per record, both these candidates had filled their category '1' of Ex-servicemen special quota for Delhi Police in the application form with SSC. The copies of application forms duly filed by them are annexed herewith as Annexure R11 & 12 respectively."

26. The respondents also filed the final result of the candidates who were shortlisted by the respondent no. 1, that is, SSC, for the Delhi Police. The detailed report of the 16 candidates whose result was declared by the respondent no. 1 under Ex-Servicemen special category 'Commando', during the 2013 recruitment exam, are as under:

SL. No.	Respondent No. of the WPC	Name of the candidate	Roll No.	Category applied	Selected category as per result	Status	Whether the candidate fulfilled the eligibility condition for special category 'Commando', if he was selected under 'Commando' category
1.	NA	Mukesh Kumar	1202000948	UR EX-SM (SQ for EX-SM for DP-1)	UR EXSM	Joined in Nov 2014	NSG Commando certificate is found appended in available record. He technically resigned from Delhi Police & selected for the post of TGT (ARTs).
2.	7	Harish	2201057987	OBC EX-SM (SQ for EX-SM for DP-1)	UR EXSM	Joined in Nov 2014	Commando Certificate issued from Naval Pension Office, Mumbai, Indian Navy is found appended in available record. He technically resigned



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							from service on selection to the post of Insp. In Income Tax NWR v/o No.36824-925/P. Cell(Estt.)/NE Distt. dt. 15.12.2016.
3.	8	Shankar Lal Meena	2405033882	ST EX-SM (SQ for EX-SM for DP-2)	ST EXSM	Joined in Nov 2014	Commando Certificate issued by 1 st Bn., the Parachute Regiment (Special Forces) is found appended in service record.
4.	12	Deepak Kumar	4410007799	OBC EX-SM (SQ for EX-SM for DP-2)	OBC EXSM	Joined in Nov 2014	NSG Certificate issued by Group Commander is found appended in available service record.
5.	9	Brahm Singh	3011500184	UR EX-SM (EX-SM for Delhi Police-1)	UR EXSM	Joined in Nov 2014	Security Training Certificate issued by AEC TRG College & Centre is found appended in service record.
6.	10	Jatan Singh	3011506433	UR EX-SM (EX-SM for DP-1)	UR EX-SM	Joined in Nov 2014	Security Training Certificate is found appended in his Ch. Roll
7.	3	Sanjeev Kumar	1601000176	UR EX-SM (SQ for EX-SM for DP-1)	UR EXSM	Joined in Nov 2014	Commando certificate is not found appended in his Ch. Roll & Fauzi Missal
8.	4	Shambhu Kumar Jha	1601006741	UR EX-SM SM (SQ for EX-SM for DP-1)	UR EXSM	Joined in Nov 2015	Commando certificate is not found appended in his Ch. Roll & Fauzi Missal
9.	6	Jasmer Singh	1801000734	SC EX-SM (SQ for EX-SM for DP-1)	SC EXSM	Joined in Nov 2014	Commando Certificate is not found appended in his Ch. Roll & Fauzi Missal. He retired on superannuation from Delhi Police on 31.03.2020. (Bio data is enclosed)
10.	11	Santosh Kumar	3013500474	OBC EX-SM (SQ for EX-SM for DP-1)	OBC EXSM	Joined in Nov 2014	Commando certificate is not found appended in his Ch. Roll & Fauzi Missal
11.	13	Naresh Kumar	7002700361	SC EX-SM (SQ for EX-SM for DP-1)	SC EXSM	Joined in Nov 2014	Commando certificate is not found appended in his Ch. Roll & Fauzi Missal
12.	14	Dinesh	7204700136	OBC EX-SM	OBC	Joined in	Commando certificate

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		Kumar		(SQ for EX-SM for DP-1)	EXSM	Nov 2014	is not found in his Ch. Roll & Fauzi Missal
13.	5	Rakesh Kumar	1801000125	UR EX-SM (SQ for EX-SM for DP-1)	GENL EXSM	Joined in Nov 2014	Technically resigned from service v/o No. 1007-60/Estt.(III)/Sec., dated 12.01.2015. However his Commando certificate is not found appended in his Ch. Roll & Fauzi Missal.
14.	NA	Samesh Kumar	3003506513	OBC EX-SM (SQ for EX-SM for DP-1)	OBC EXSM	Candidate cancelled	His candidature has been cancelled v/o No.3413/R. Cell(SI/DA-I)/NPL, dated 05.03.2015. However, as per dossier,
15.	NA	Pankaj Kumar	7204701327	UR EX-SM (SQ for EX-SM for DP-1)	UR EXSM	Candidate cancelled	His candidature has been cancelled v/o No.2030/R Cell(SI/DA-I)/NPL, dated 04.05.2016.
16.	NA	Sanjay Sharma	3003508281	NA	UR EXSM	Dossier not received from the recruiting agency SSC	Dossier not received from the recruiting agency SSC

27. From the above, it is apparent that the requisite Commando Certificates of the candidates at Serial Nos. 7 to 13 are not available with the respondent no. 2, Delhi Police. The candidates at Serial Nos. 4, 5 and 6 were also not eligible to be considered against the sub-category of Ex-Servicemen, since they failed to qualify the conditions provided in (i) to (iii) as above. Further, the candidature of candidates at Serial No. 14 and 15 had been cancelled, while for the candidate at Serial No.16, the dossier had not been received by the respondent no. 2, Delhi Police, from the SSC. Therefore, the final result declared by the respondents included several candidates who were either ineligible



or whose candidature was incomplete, thereby rendering the selection process contrary to the eligibility criteria prescribed by the Advertisement.

28. The reliance placed by the respondent no. 2 on Note III of the Corrigendum dated 09.04.2014 to the Advertisement is also ill-founded. The said Note reads as under:

*“(III) Below Note II (iii) of para 2, the following clause is incorporated:-
“In case sufficient number of Ex-servicemen candidates under categories at (i), (ii) and (iii) are not available, the unfilled vacancies will be filled amongst other available Ex-Servicemen candidates”.”*

29. A reading of the above Note would show that it is only where sufficient number of Ex-Servicemen candidates under categories (i) to (iii) are not available, that the un-filled vacancies can be filled up from among the other available Ex-Servicemen candidates. In the present case, as the petitioner was available and was satisfying the requirements of the above-mentioned category for special reservation, the need for moving to candidates belonging to the General Ex-Servicemen category, while ignoring the petitioner’s candidature, has not been justified by the respondent no. 2.

30. While a candidate has no right to selection, such candidate certainly has a right to a fair selection process in terms of the Advertisement to be followed by the Authority. In the present case, the said right of the petitioner has been violated as the respondent nos. 1 and 2, on their own showing, have failed to adhere to the requirements of special reservation for the category of Ex-Servicemen,



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as laid down in the Advertisement.

31. The learned Tribunal has, therefore, erred in dismissing the O.A. filed by the petitioner herein.

32. This now brings us to the relief to which the petitioner would be entitled to in the present petition.

33. From the above, it is apparent that the respondent nos. 1 and 2 have not adhered to and have not given due recognition to recruitment eligibility under the special category of Ex-Servicemen. The cut-off marks of 154.75 for the Commando Ex-Servicemen OBC category, as stated by the respondent no. 2, cannot be given any credence. The respondent no. 2 would, therefore, have to re-work the merit list to determine the cut-off for the candidates belonging to the special category of Ex-Servicemen satisfying condition nos. (i) to (iii) as stipulated in the Advertisement.

34. In case the petitioner succeeds in making to the cut-off, subject to him fulfilling the other conditions in the Advertisement, the petitioner shall be offered appointment to the post of Sub-Inspector (Exe.) Male, effective from the date his batchmates, that are, the respondent nos. 3 to 14 herein, were given such appointment. The petitioner shall, in such an event, also be entitled to the notional seniority and other benefits notionally. However, he shall not be entitled to the actual pay for the intervening period. The above exercise must be completed by the respondent nos. 1 and 2 within a period of eight weeks from today.

35. With respect to the respondent nos. 3 to 14, although we have found that many of them were not entitled to appointment under the



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special category of Commando Ex-Servicemen, taking into account the fact that they have been working since 2014, we do not interfere with their appointments in the Delhi Police.

36. The benefit of this Judgment shall be confined only to the petitioner or any other similarly situated candidate who has challenged the recruitment process undertaken by the respondent nos. 1 and 2, and such challenge is pending adjudication before the learned Tribunal or this or other Court as on the date of this Judgment.

37. The respondent no. 1 shall pay costs of Rs.20,000/- to the petitioner within a period of eight weeks from today.

38. The petition along with the pending applications is disposed of in the above terms.

NAVIN CHAWLA, J.

MADHU JAIN, J

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