



2025:DHC:10689-DB



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

+ W.P.(C) 17949/2025, CM APPL. 74259/2025, CM APPL. 74260/2025, CM APPL. 74261/2025

DEEPALI PAL

.....Petitioner

Through: Mr. Dhruv Gupta, Mr. Anubhav Garg, Mr. Yash Raj Mehran, Ms. Anushka Sharma, Advs.

versus

UNION OF INDIA MINISTRY OF HOME
AFFAIRS THROUGH ITS SECRETARY
& ORS.

.....Respondents

Through: Ms. Avshreya Pratap Singh Rudy, CGSC, Ms. Usha Jamnal GP, Ms. Prajna Pandit, Mr. Junaid Mahmood, Advs. Mr. Devendra Singh, ITBP.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

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27.11.2025

C. HARI SHANKAR, J.

1. The petitioner applied for recruitment as a Sub Inspector¹ in Delhi Police and Central Armed Police Forces, in response to an advertisement issued by Staff Selection Commission².

2. She cleared all four stages of the examination and claims to have scored 311.6118 marks. She belongs to the Other Backward

¹ "SI" hereinafter

² "SSC" hereinafter



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Classes³.

3. In the final result of the examination, the cut-off marks for candidates of the OBC category for appointment as SI were fixed as 312.73904. The petitioner having scored 311.6118 marks, fell short of the cut-off marks. She, therefore, could not be appointed.

4. Even as per the assertions in the petition, Clause 16.21 of the advertisement provides that unfilled vacancies could be carried forward to the next vacancy year. As such, there is a provision to deal with unfilled vacancies, which would not be allowed to permanently remain unfilled.

5. The case of the petitioner is, however, that, as she fell short of the cut-off for OBC candidates by just 1.12724 marks, had a wait list been in place, she would have qualified for appointment as SI. Ergo, the writ petition prays for a writ of mandamus to issue to the respondents to prepare, publish and maintain a reserve list/wait list and consider the candidature of the petitioner for appointment as SI in case any unfilled vacancies are in existence.

6. There is no other prayer in the writ petition.

7. The issue, to our mind is squarely covered against the petitioner by the judgment of the Supreme Court in *Vallampati Sathish Babu v.*

³ “OBC” hereinafter



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*State of Andhra Pradesh*⁴.

8. The Division Bench of this Court, speaking through one of us (C. Hari Shankar J.) has, following the judgment of Supreme Court in *Vallampati Sathish Babu*, held, in *Akhil Pahuja v. Union of India*⁵, that no mandamus can issue to the department or the executive authorities to maintain a wait list unless the rule or executive instruction applicable so requires. We may reproduce, hereunder, the relevant passages from *Vallampati Sathish Babu* and *Akhil Pahuja*:

From *Vallampati Sathish Babu*

“17. The appellant could have claimed the appointment to the post which remained unfilled *provided there is a provision for waiting list as per the statutory provision. In absence of any specific provision for waiting list* and on the contrary, there being a specific provision that there shall not be any waiting list and that the post remaining unfilled on any ground shall have to be carried forward for the next recruitment. The appellant herein, thus, had no right to claim any appointment to the post which remained unfilled.”

(Emphasis supplied)

From *Akhil Pahuja*

“20. Right to maintenance of a wait list/standby list

20.1 On the right of candidates to the maintenance of a waitlist/standby list, the Supreme Court has, in its judgment in *Vallampati Sathish Babu*, observed as under:

“17. The appellant could have claimed the appointment to the post which remained unfilled provided there is a provision for waiting list as per the statutory provision. In absence of any specific provision for waiting list and on the contrary, there being a specific provision that there shall not be any waiting list and that the post remaining unfilled on

⁴ (2022) 13 SCC 193

⁵ 2024 SCC OnLine Del 8449



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any ground shall have to be carried forward for the next recruitment. The appellant herein, thus, had no right to claim any appointment to the post which remained unfilled.”

(Emphasis supplied)

20.2 *Thus, there is no inherent right, in any candidate, to the maintenance of a waiting list, standby list or reserve panel for appointment to any post in the Government. Where the Rules unequivocally require such a standby list or waiting list to be maintained, the Court would no doubt insist on strict adherence to the requirement. Where such an unequivocal requirement is not to be found in the Rules or applicable instructions, the Court cannot insist on the maintenance of a standby list or a waiting list.*

20.3 Though it is true that it is in the interests of administration and efficient functioning of the Government that all posts are filled and no posts are allowed to remain vacant, where candidates are available, nonetheless, the Court cannot insist on the preparation or maintenance of a waiting list or the standby list, if the law does not so require. **Vallampati Sathish Babu** makes it clear that it is only where there is a positive requirement in the law for maintenance of a waiting list, that the Court can insist on such maintenance.”

(Emphasis supplied)

9. Mr. Dhruv Gupta, who argued the matter with considerable competence, endeavoured to point out that there is in place an Office Memorandum⁶ dated 13 June 2000, issued by the Department of Personnel and Training, which mandates maintenance of a waiting list.

10. We may reproduce the said OM, *in extenso*, as under:

“OFFICE MEMORANDUM

Sub: Operation of reserve panels prepared on the basis of selections made by UPSC. Staff Selection Commission, other recruiting agencies and where selections are made by Ministries / Department etc. — acceptance of recommendations of Fifth Central Pay Commission - regarding.

⁶ “OM” hereinafter



The undersigned is directed to invite attention to this Department's Office Memorandum quoted in the margin and to say that in terms of these Office Memorandum, it was informed that the Union Public Service Commission, wherever possible, maintains a reserve panel of candidates found suitable on the basis of selections made by them for appointment on direct recruitment, transfer on deputation, transfer basis and the reserve panel is operated by the UPSC on a request received from the Ministry/Department concerned when the candidate recommended by the UPSC either does not join, thereby causing a replacement vacancy or he joins but resigns or dies within six months of his joining. Ministries/Departments were advised that whenever such a contingency arises, they should first approach the UPSC for nomination of a candidate from the reserve panel, if any. The recruitment process be treated as completed only after hearing from the UPSC and the Ministry/Department concerned may resort to any alternative method of recruitment to fill up the vacancy thereafter.

2. The Fifth Central Pay Commission, in para 17.11 of its Report, has recommended that with a view to reduces delay in filling up of the posts, vacancies resulting from resignation or death of an incumbent within one year of his appointment should be filled immediately by the candidate from the reserve panel, if a fresh panel is not available by then. Such a vacancy should not be treated as a fresh vacancy. This recommendation has been examined in consultation with the UPSC and it has been decided that in future, where a selection has been made through UPSC, a request for nomination from the reserve list, if any, may be made to the UPSC in the event of occurrence of a vacancy caused by non-joining of the candidate within the stipulated time allowed for joining the post or where a candidate joins but he resigns or dies within a period of one year from the date of his joining, if a fresh panel is not available by then. Such a vacancy should not be treated as fresh vacancy.

3. It has also been decided that where selections for posts under the Central Government are made through other recruiting agencies such as Staff Selection Commission or by the Ministries/Departments directly and the reserve panels are similarly prepared, the procedure for operation of reserve panels maintained by UPSC as described in para 2 above will also be applicable for the reserve panels maintained by the other recruiting agencies/authorities.

Sd/-
(Harinder Singh)



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Joint Secretary to the Government of India”

11. To our reading, there are two reasons why this OM cannot come to the aid of the petitioner.

12. In the first place, the OM deals essentially with selections undertaken by the UPSC. Para 3 of the OM merely states that in case the selection is conducted by any other authority such as the Staff Selection Commission – as in the present case – the principles for operating the reserve list, as contained in the OM, would apply to those agencies as well.

13. The second reason why the OM is not applicable is that even in respect of the UPSC, to our reading, is that the OM does not mandate a reserve list or waiting list is to be operated. What the OM states is that *the DOPT was informed that the UPSC, wherever possible, maintains a reserve list or waiting list to cater to unfilled vacancies.* The OM, thereafter proceed to explain how that wait list or reserve list, *if maintained*, should be operated. We cannot read the OM as requiring mandatorily a wait list to be operated even in the case of selections by the UPSC.

14. As such, the OM cannot, in our view, come to the aid of the petitioner.

15. Mr. Gupta thereafter sought to contend that the decision in ***Vallampati Sathish Babu*** does not consider the judgment of a larger Bench of the Supreme Court, rendered prior in point of time, in



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Dinesh Kumar Kashyap v. South East Central Railway⁷. He has particularly drawn our attention to paras 6 and 12 of the said decision, which read thus:

“6. Our country is governed by the rule of law. Arbitrariness is an anathema to the rule of law. When an employer invites applications for filling up a large number of posts, a large number of unemployed youth apply for the same. They spend time in filling the form and pay the application fees. Thereafter, they spend time to prepare for the examination. They spend time and money to travel to the place where written test is held. If they qualify the written test they have to again travel to appear for the interview and medical examination, etc. Those who are successful and declared to be passed have a reasonable expectation that they will be appointed. No doubt, as pointed out above, this is not a vested right. However, the State must give some justifiable, non-arbitrary reason for not filling up the post. When the employer is the State it is bound to act according to Article 14 of the Constitution. It cannot without any rhyme or reason decide not to fill up the post. It must give some plausible reason for not filling up the posts. The courts would normally not question the justification but the justification must be reasonable and should not be an arbitrary, capricious or whimsical exercise of discretion vested in the State. It is in the light of these principles that we need to examine the contentions of SECR.

12. Another argument raised is that recruitment policy is an executive decision and the courts should not question the efficacy of such policy. Neither the appellants nor this Court is questioning the efficacy of the policy contained in the letter dated 2-7-2008. All that has been done is to ensure implementation of the policy by Respondent 1, especially when it has failed to give any cogent reason to justify its action of not calling for candidates from the replacement list of extra 20 per cent candidates.”

16. We do not find any conflict between ***Vallampati Sathish Babu*** and ***Dinesh Kumar Kashyap***. ***Dinesh Kumar Kashyap*** was a case in which there was actually a reserve list in place. The Supreme Court

⁷ (2019) 12 SCC 798



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has held, unexceptionably, that if a reserve list is in place, the executive authority cannot keep vacancies unfilled and not operate the reserve list unless there are good and sufficient reasons for doing so.

17. The judgment, quite clearly, is not an authority for a proposition that a mandamus can issue to the respondent to keep a reserve list in place, in the absence of any statutory provision, Rule, or executive instruction so requiring.

18. We, however, are also of the opinion, in principle, that the operation of a reserve list/wait list is an advisable feature, as it would result in unfilled vacancies being filled in that particular year. Carrying forward of vacancies cannot be the norm, and should ordinarily be resorted to only when it is impossible to fill the vacancies in the recruitment year. Keeping vacancies unfilled, despite the availability of competent persons to fill them, does no good to anyone, and retards the wheels of administration.

19. However, we are bound by the law laid down in *Vallampati Sathish Babu*, which clearly states that there cannot be a mandamus to the executive to maintain a wait list or reserve list unless rules or applicable instructions so ordain. As we have already noted, this is all that the petitioner seeks.

20. There are no rules or executive instructions, to which our attention has been invited, on the basis of which we can issue such a mandamus to the respondents in the present case.



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21. Mr. Gupta further submits that, in succeeding years, the respondents have maintained wait list. That, again, cannot be a ground for us to direct the respondents to maintain a wait list for the year in which the petitioner participated.

22. We regret, therefore, that we are not in a position to grant the relief sought in the present petition.

23. The petition is accordingly dismissed in *limine*.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

NOVEMBER 27, 2025/dsn