



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**O.A. No. 2047/2021
M.A. No. 638/2022,
M.A. No. 2606/2021,
M.A. No. 2001/2022**

This the 27th Day of September, 2022

**Hon'ble Mr. R.N. Singh, Member (J)
Hon'ble Mr. Tarun Shridhar, Member (A)**

1. Pintu Meena
Aged about 23 years,
S/o Sh. Arjun Meena
R/o VPO Khudiyana, Tehsil-Laxmangarh,
District-Alwar,
Rajasthan-321607
Mob No. : 9772126128, 3664324625
Post : Multi Tasking Staff
Group : C
2. Akash
Aged about 26 years,
S/o Sh. Braham Prakash
R/o VPO Palhawas, Tehsil-Palhawas, District-Rewari,
Haryana-123035
Mob. No. 9671361070, 9518672310
Post: Multi Tasking Staff
Group: C
3. Arif Khan Aged about 23 years,
S/o Sh. Sahabuddin Khan
R/o Ward No.2. Pendka Road Nagar
Tehsil- Nagar, District Bharatpur,
Rajasthan-321205 Mob. No. 9549910089
Post: Multi Tasking Staff
Group: C
4. Vipin Mishra
Aged about 28 years,
S/o Sh. Kamlesh Mishra
R/o Ward No.9, Anantpur, Majhiyar Road

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Rewa, Madhya Pradesh – 486002
 Mob. No. 8889905514
 Post: Multi Tasking Staff
 Group: C

5. Pushpendra Kumar Meena
 Aged about 30 years.
 S/o Sh. Ramphool Meena
 R/o Village Meena Khediya, Post Paota
 Tehsil Mahwa, District Dausa, Rajasthan-321612
 Mob. No. 6350255053
 Post: Multi Tasking Staff
 Group: C
6. Ranjan Kumar Gupta
 Aged about 26 years,
 S/o Sh. Prem Chandra Sah
 R/o Vill-Post-Motha, PS-Karakat,
 Distt. Rohtas, Bihar-802212
 Mob. No. 8825327046, 7352493669
 Post: Multi Tasking Staff
 Group: C
7. Punit Kumar
 Aged about 24 years,
 S/o Sh. Prayag Gond
 R/o Village Babhani, Post- Pasanara,
 P.S.- Buxar (Muffasil) Dist.
 Buxar, Bihar, 802119
 Mob. No. 7488486225
 Post: Multi Tasking Staff
 Group: C
8. Moh Sonu Malik
 Aged about 23 years,
 S/o Sh. Mohd. Khalid
 R/o VPO-Loni, Rajiv Garden, Nala,
 Tehsil - Loni, District Ghaziabad,
 Uttar Pradesh-201102
 Mob. No. 7210383528, 9582107684
 Post: Multi Tasking Staff
 Group: C
9. Navneet Kumar

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Aged about 29 years,
 S/o Sh. Binod Mandal
 R/o Vill-Humayunpur, PO-Humayunpur,
 P.S. Bajpatti, Distt. Sitamarhi, Bihar
 Mob. No. 9523990906, 6201133561
 Post: Multi Tasking Staff
 Group: C

10. Ankit Kumar Singh
 Aged about 23 years,
 S/o Sh. Anugarah Narayan Singh
 R/o Koiri Bandh South, Jharia, Dhanbad,
 Jharkhand-828111
 Mob. No. 7562814723, 9525076756
 Post: Multi Tasking Staff
 Group: C
11. Nikhil Sain
 Aged about 24 years,
 S/o Sh. Suresh Chand Sain
 R/o B-16, Kal Mori Heera Bass, Alwar,
 Rajasthan-301001
 Mob. No. 72404881821
 Post: Multi Tasking Staff
 Group: C
12. Dinesh Kumar
 Aged about 25 years,
 S/o Sh. Rambir
 R/o Village Mandori. Post – Mandori
 Tehsil – Hathin, District Palwal,
 Haryana-121103
 Mob. No. 8930800793, 8307032265
 Post: Multi Tasking Staff
 Group: C
13. Sumit
 Aged about 22 years,
 S/o Sh. Rajbir
 R/o Village Kinnar, PO-Nara, Tehsil-Narnaund,
 Dist. Hisar, Haryana-125039
 Mob. No. 8395958154
 Post: Multi Tasking Staff

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14. Manish Kumar
Aged about 27 years.
S/o Sh. Hira Lal Pandit
R/o B-77-A, Sangam Vihar, New Delhi-110080
Mob. No. 9354658086
Post: Multi Tasking Staff
Group: C
15. Tuntun Pandit
Aged about 30 years,
S/o Sh. Basant Pandit
R/o A.T.-Nonihat, PO. Nonihat, P.S. Hansdiha,
District-Dumka Jharkhand-814145
Mob. No. 9199290576, 62069656334
Post: Multi Tasking Staff
Group: C
16. Govind Kumar
Aged about 30 years,
S/o Sh. Sarjan Sahni
R/o AT-Maraiya, PO-Pipralatif, Via-Mahaddipur,
PS- Parbatta
Distt. Khagaria, Bihar-851212
Mob. No. 6204186687
Post: Multi Tasking Staff
Group: C
17. Roop Singh
Aged about 24 years.
S/o Sh. Nathiram
R/o 41/2 Rampuri, Muzaffarnagar,
Mob. No. 7078502826
Post: Multi Tasking Staff
Group: C
18. Sheel Ratan Kumar
Aged about 27 years.
S/o Sh. Muneshwar Saw
R/o Vill-PO-Mirzaganj, PS-Sikandra, Distt. Jamui,
Bihar-811301
Mob. No. 7004687265
Post: Multi Tasking Staff

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19. Lalit Kumar
Aged about 23 years,
S/o Sh. Tarachand Kataria
R/o VPO Surajgarh Tehsil-Surajgarh,
District-Jhunjhunu-333029
Mob. No. 7727928828, 9460901017
Post: Multi Tasking Staff
Group: C
20. Ranjeet Kumar
Aged about 30 years,
S/o Sh. Jagdish Prasad
R/o Village-Poore Deen, Post Matka,
Tehsil-Salon, District- Raibareli-229127
Mob. No. 7607881780
Post: Multi Tasking Staff
Group: C
21. Sujit Kumar
Aged about 23 years.
S/o Sh. Ramashish Yadav
R/o Village Surkhi. PO Obra, PS-Obra.
District Aurangabad, Bihar-824124
Mob. No. 9504611113
Post: Multi Tasking Staff
Group: C
22. Sunil Kumar Singh
Aged about 32 years,
S/o Sh. Bhagwan Singh
R/o Village Kapatiyam. PO Diviyan, Dist. Rohtas,
Bihar-821107
Mob. No. 8810662586
Post: Multi Tasking Staff
Group: C
23. Gopal
Aged about 24 years,
S/o Sh. Bijender Singh
R/o C-43. Street No.2. Panchal Vihar,
Karawal Nagar, Delhi 110094

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Mob. No. 9015784219, 8595132614

Post: Multi Tasking Staff

Group: C

24. Aman Kumar
Aged about 25 years,
S/o Sh. Jethan Singh
R/o Village Achuki, Post Latta, PS Pauthu,
Dist. Aurangabad, Bihar
Mob. No. 8651135124
Post: Multi Tasking Staff
Group: C
25. Anil Kumar
Aged about 27 years,
S/o Sh. Jai Pal Singh
R/o VPO Neshal Chhoti,
Tehsil-Rajgarh, District-Churu, Rajasthan-331303
Mob No. 9772134009
Post: Multi Tasking Staff
Group: C
26. Shiv Kumar
Aged about 28 years.
S/o Sh. Ram Kumar
R/o Village Kharak Khurd,
Post- Kharak Kalan, Dist-Bhiwani,
Haryana-127114
Mob. No. 8607730101
Post: Multi Tasking Staff
Group: C
27. Gulam Sabir
Aged about 24 years.
S/o Sh. Aftab Alam
R/o AT-Kailuchak, PO+PS- Masaurhi,
District- Patna, Bihar-804452
Mob. No. 8521203384
Post: Multi Tasking Staff
Group: C
28. Maman Jangir
Aged about 26 years,

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S/o Sh. Prabhu Dayal Jangir
 R/o VPO Shuklawas, Tehsil Kotputli,
 District-Jaipur, Rajasthan
 Mob. No. 8058787667
 Post: Multi Tasking Staff
 Group: C

29. Manoj Kumar
 Aged about 27 years
 S/o Sh. Chandrika Yadav
 R/o Village Harpur,
 PO+PS Hulasganj, Distt. Jehanabad,
 Bihar-804407
 Mob. No. 9608977602
 Post: Multi Tasking Staff
 Group: C

...Applicants

(By Advocate : Mr. Anuj Aggarwal)

Versus

1. The Delhi Police
 Through its Commissioner of Police
 MSO Building, Indraprashta Marg.
 IP Estate, New Delhi-110095
 Email: cp.snsrivastava@delhipolice.gov.in
2. The Deputy Commissioner of Police
 Establishment Branch,
 Delhi Police
 Main Road, New Delhi-110001
 Email: delpol.service@delhipolice.gov.in

...Respondents

(By Advocate : Mr. Amit Anand)

**ORDER (ORAL)****Hon'ble Mr. Tarun Shridhar, Member (A)**

The applicants are aspirants for appointment to the post of Multi Tasking Staff (MTS) in Delhi Police and are aggrieved that they have been denied appointment despite qualifying in both the Written Test and the Trade Test in accordance with the requirement for appointment to the said post.

2. By virtue of the present O.A., they seek the following reliefs :

(i) Set aside the impugned Order/Letter No. 4062-63/Rectt.Cell(AC-IV)/PHQ, dated 27.07.2021, issued by the respondents whereby the request of the applicants for filling 439 unfilled vacancies out of 707 total vacancies, as advertised vide Advertisement dated 17.12.2017, of the Multi-Tasking Staff (Civilian) Group 'C' post, despite availability of the shortlisted and qualified candidates, was rejected.

(ii) Declare that the impugned action on the part of the respondents in not filling 439 unfilled vacancies out of 707 total vacancies, as advertised vide Advertisement dated 17.12.2017, of the Multi-Tasking Staff (Civilian) Group 'C' post, despite availability of the shortlisted and qualified candidates, is illegal, unjustified, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India;

(iii) Direct the respondents to fill all 439 vacancies, which have remained unfilled out of 707 total vacancies, of the Multi-Tasking Staff (Civilian) Group 'C' post in the Delhi Police, as advertised vide Advertisement dated 17.12.2017;

(iv) Direct the respondents to consider the candidature of the applicants for appointment on the post of Multi-Tasking Staff

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(Civilian) and, after such consideration, appoint the applicants on the post of Multi-Tasking Staff (Civilian) and grant them all the consequential benefits including seniority, back wages/salary, etc. w.e.f. the date when their counterparts were appointed.

(v) Allow the present Original Application with costs in favour of the applicants; and

(vi) Issue any other order or direction as this Hon'ble Tribunal may deem fit and proper in the interest of justice and in the favour of the applicants.

3. Brief facts of the case are that the respondents had issued an advertisement dated 17.12.2017 for filling up 707 posts of Multi Tasking Staff (Civilian) Group C in different trades. The candidates who qualified the Written Test and were placed in merit in accordance with the prescribed cut off marks were invited to undergo the Trade Test which was only of a qualifying nature; the only stipulation being that they should obtain a minimum of 50% marks to qualify in the Trade Test. The result of the written examination was declared on 15.16.2019 and 3,625 candidates who had secured a place in the merit list of the written examination, were subjected to the Trade Test. Many of these candidates who appeared in the Trade Test had applied for more than one trade but according to the scheme of recruitment, they were to be appointed against one vacancy only.

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4. To cut a long story short, as against 707 vacancies which were advertised, the respondents finally selected only 408 candidates and the present applicants are thus aggrieved that had the respondents taken their own advertisement and selection process to a logical conclusion by giving appointment to 707 candidates on the basis of the merit, the present applicants would have found a place therein and got appointment to which they had qualified on the strength of their merit.

5. Learned counsel for the applicant argues that at present 439 vacancies of the 707 which were advertised and for which selection process was undertaken remain unfilled; and the respondents have adduced no reason whatsoever for not filling up these vacancies. He terms the action of the respondents arbitrary and against the conditions set out in the advertisement.

6. He argues that once applications were invited for 707 vacancies and more than adequate number had found a place in the merit list of the written examination and subsequently qualified in the Trade Test, the respondents were under an obligation to give appointment to all such candidates who had succeeded both in the Written Examination and in the Trade Test in accordance with their position in the final merit list.

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7. He draws attention to the documents he has placed on record, specifically a letter dated 10.06.2020 in which the Deputy Commissioner of Police, Establishment PHQ : Delhi, in exercise of his responsibility as Public Information Officer has informed that the candidates for various posts of MTS (Civilian) in Delhi Police are selected as per their merit achieved by them. The said communication goes on to state that if a candidate is selected for more than one post, he will be allowed to join only one post and the remaining unfilled vacancies will be filled from the additional list to be declared shortly.

8. Learned counsel argues that contrary to their own decision and the conditions set out in the advertisement, the respondents for reasons not stated have not given effect to the additional/waiting list. He draws attention to the advertisement which the respondents have issued and this advertisement also contains an unambiguous stipulation to this effect that candidates shall be appointed in accordance with their place in merit list upto the number of vacancies which have been advertised for selection.

9. Against this background, learned counsel points out that the subsequent decision of the respondents not to fill up these posts being in contravention to the terms and



conditions already notified, cannot be sustained and should be set aside being arbitrary. He further points out that the respondents have taken steps to fill up these unfilled vacancies by way of a subsequent selection process to the detriment of the rights of the present applicants despite the fact that there is an additional merit list already available with the respondents. Therefore, he seeks a direction to the respondents to immediately issue appointment letters to the applicants in accordance with their position in the merit list of the aforesaid selection.

10. Learned counsel draws strength from a catena of judgments which he has referred to in para 5 of his O.A., specifically to the judgment rendered by the Hon'ble Supreme Court in case titled **Dinesh Kumar Kashyap & and Ors. Vs. South East Central Railway & Ors.** (2019) 12 SCC 798. wherein the Hon'ble Supreme Court had held as under :

“6. The main issue which arises before us is whether SECR could have ignored the 20 per cent extra panel despite the letter dated 2-7-2008 without giving any cogent reason for the same. No doubt, it is true, that mere selection does not give any vested right to the selected candidate to be appointed. At the same time when a large number of posts are lying vacant and selection process has been followed then the employer must satisfy the court as to why it did not resort to and appoint the selected candidates, even if they are from the replacement panel. Just because discretion is vested in the authority, it does not mean that this discretion can be



exercised arbitrarily. No doubt, it is not incumbent upon the employer to fill all the posts but it must give reasons and satisfy the court that it had some grounds for not appointing the candidates who found place in the replacement panel. In this behalf we may make reference to the judgment of this Court in *R.S. Mittal v. Union of India*, wherein it was held as follows: (SCC p. 234, para 10)

"10. ... It is no doubt correct that a person on the select panel has no vested right to be appointed to the post for which he has been selected. He has a right to be considered for appointment. But at the same time, the appointing authority cannot ignore the select panel or decline to make the appointment on its whims. When a person has been selected by the Selection Board and there is a vacancy which can be offered to him, keeping in view his merit position, then, ordinarily, there is no justification to ignore him for appointment. There has to be a justifiable reason to decline to appoint a person who is on the select panel. In the present case, there has been a mere inaction on the part of the Government. No reason whatsoever, not to talk of a justifiable reason, was given as to why the appointments were not offered to the candidates expeditiously and in accordance with law. The appointment should have been offered to Mr Murgad within a reasonable time of availability of the vacancy and thereafter to the next candidate. The Central Government's approach in this case was wholly unjustified."

7. 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.”

11. Learned counsel for the respondents on the other hand vehemently opposed the averments made by the learned counsel for the applicants and submits that it is an exclusive prerogative of the respondents to decide whether to fill up either all or some of the posts advertised. Filling up of the posts is to be resorted to on administrative consideration and exigencies only. The applicants cannot force the respondents to fill the posts merely on the ground that they have been successful in the Written and Trade Test.

12. Learned counsel points out that it was the well considered decision of the competent authority not to give effect to the additional merit list and while arriving at such a decision the said competent authority has taken into consideration all the facts. He also draws attention to the fact that the competent authority while taking a decision of not giving effect to the additional list has recorded its reasons for the same.

13. Learned counsel draws attention to an order passed by this Tribunal in O.A. No. 3528/2017 on 15.03.2019 wherein



the facts and circumstances were identical and this Tribunal had held that no direction can be given to the concerned authority to prepare, maintain and obtain a reserved panel or a wait list.

14. He further draws attention to the judgment passed by the Hon'ble Supreme Court in Civil Appeal No. 401/2022 case titled **Sushil Kumar vs. State of Haryana** pointing out that in judicial review proceedings, courts cannot and should not go into the merit of the decision taken by the competent authority; at best they could review only the decision making process. In the instant case, the decision has been taken by the highest authority of Delhi Police and the same has been taken on cogent and sound grounds which are duly recorded.

15. We have heard the learned counsel for the parties on more than one occasion. We considered it appropriate for a judicious examination and decision on the issue at hand, to go through the relevant files in order to understand as to what the decision making process in the instant matter has been. We acknowledge that the respondents have promptly assisted us by placing the relevant files before us.

16. A perusal of the relevant file indicates that when the final result of the Written and Trade Test of these 707 vacancies

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was received in the Police Headquarters, the same along with all the related issues were very meticulously examined on 25.10.2019. After examination, the result was compiled by an Evaluation Officer of the rank of Special Commissioner of Police and the file noting shows that the final result containing the Roll Number of the candidates in “Main List and Additional List” was sent and it was proposed that the result may be declared and displayed on the notice board as also the website. However, vide a subsequent noting, it was brought to the notice that while in the letter of the Evaluation Officer, there is a mention of submitting an Additional List along with the Main List, the Additional List, somehow, either it was not provided or was not available on file for some other reasons. Accordingly, it was decided to request the Evaluation Officer/ Special Commissioner of Police to send the Roll Number of the candidates placed in the Additional List. One month later, it was again recorded that since the Additional List was yet to be received, a fresh request/reminder be made to the Special C.P. to send the names of the Additional List.

17. It was only on 05.08.2020 i.e. after a lapse of about seven months from the initial processing of the result that an Additional List containing 72 names was submitted by the Evaluation Officer/Special Commissioner of Police. Once this

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Additional List was received, the file was submitted for the approval of the competent authority i.e. the Commissioner of Police, who is said to have held that the Additional List should have been published along with the Main List and if it is published at this stage, it may be construed as improvement/modification of the already published list. Initially this observation has only been recorded by the Special Commissioner of Police, referring to a discussion he has held with the Commissioner of Police in this regard. However, subsequently the matter was again put up by way of a detailed note to the Commissioner of Police wherein several options were given, but it was clearly recommended that the result already declared may be withdrawn and after considering the fresh preference made by the candidates and taking into consideration the Additional List, the result be declared afresh.

18. The competent authority i.e. the Commissioner of Police in his wisdom held that the recruitment advertisement was published in the year 2017 and it took more than one year to conduct a written examination and a further more than one year to publish the result. He also expressed displeasure about the fact that the examination and its subsequent result were not conducted and published in an efficient manner.



Accordingly, the competent authority was of the opinion that any review of the same at this stage is liable to be questioned and therefore, he directed that instead of modification of the result and adding any names, the department should go for a fresh recruitment. The basic reason for this decision given by the competent authority was to maintain transparency and avoid any litigation.

19. We have heard the learned counsel for the parties and gone through the documents on record. We have also very carefully examined the entire decision making process by perusing the relevant documents on the file.

20. The basic facts of the case are not disputed. An advertisement was issued for 707 posts of MTS; Written and Trade Test were conducted and merit list prepared. The documents on record also bring out that there were two lists viz. a Main List and an Additional List. The officer who compiled the results after evaluation is said to have submitted the two lists as the file noting bears. But probably the Additional List was not annexed when the entire result was sent and it could have been an inadvertent omission. After a few reminders, the Additional List containing 72 names was also provided. At this stage, after examination of the issue at various length, the competent authority decided



not to operationalize the Additional List as he felt that doing so would compromise the transparency and integrity of the selection process, may raise doubts and questions, and could lead to litigation.

21. While we appreciate the concern of the competent authority and have all the respect for the decision he has taken in the matter, we somehow cannot agree to the same.

22. We are of the view that while the decision of the competent authority may be sound and well reasoned, the process to arrive at this decision is not above questioning. The advertisement categorically mentions that all the 707 vacancies shall be filled up in accordance with the merit obtained by the candidates appearing for the selection process. Subsequently, by way of their own communication dated 10.06.2020, which is after the declaration of the results, the respondents have stated that the unfilled vacancies will be filled from the Additional List which will be declared shortly. There was absolutely no reason for the respondents not to declare the Additional List, especially when it was available with them and the Evaluation Officer who was of the rank of Special Commissioner of Police had prepared such a list and furnished it to the competent authority for approval, albeit a bit delayed.

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23. In view of the above, we allow the present Original Application to the extent that a direction is given to the competent authority amongst the respondents to declare the complete result of all the candidates who have found place in the merit list for the advertised posts. The merit list in this context means the Main List, the Additional List, already prepared by the Evaluation Officer, and any subsequent list that may be prepared after due consideration to the number of posts advertised. The aforesaid directions shall be complied with and given effect to within a period of 10 weeks' from the date of this order.

24. The O.A. stands disposed of with the aforesaid directions. Pending M.A(s) if any shall be disposed of accordingly.

There shall be no orders as to costs.

(Tarun Shridhar)
Member (A)

(R.N. Singh)
Member (J)

/NISHA/