



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

Reserved on: 15.09.2025
Pronounced on: 28.10.2025

+ W.P.(C) 11843/2025 & CM APPL. 48392/2025
DELHI SUBORDINATE SERVICES SELECTION BOARD
& ANR.Petitioners

Through: Mr. S. K. Mishra, Mr.
Harsh Kumar Pandey and
Ms.Sakshi Pandey, Advs.

versus

SAHIL LOHCHAB & ORS.Respondents

Through: Mr. Anuj Aggarwal,
Mr.Pradeep Kumar, Ms.
Kritika Matta and Mr.
Lovekesh, Advs.

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

J U D G M E N T

MADHU JAIN, J.

1. This petition has been filed, challenging the Order dated 27.02.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No.2410/2021, titled ***Sahil Lohchab & Ors. v. Delhi Subordinate Services Selection Board (DSSSB) & Ors.***, whereby the learned Tribunal allowed the abovementioned O.A. filed by the



respondents herein, with the following directions: -

“24. We find that the DSSSB although has rightly maintained the panel for one year, however, it ought to have considered operation the same in terms of the DOP&T instructions referred to above.

25. Given the above, the present Original Application is allowed with direction to the respondent-DSSSB to consider the candidature of the applicants for appointment on the post of Warder (Male) as per their merit within six weeks from the date of receipt of a copy of this order. In case the applicant is otherwise eligible the DSSSB shall forward their dossier to user department for further action for appointment. No costs.”

FACTS OF THE CASE

2. The brief facts leading up to the filing of the present petition are, that the petitioner no. 1, issued a vacancy Notice No. 03/17 dated 24.10.2017, for recruitment to the post of Warder (Only for Male) (Post Code: 86/17) in the Prison Department, Govt. of NCT of Delhi (hereinafter referred to as the “Post”). In the said notice, a total of 401 vacancies were advertised, comprising UR 161, OBC – 140, SC – 70, ST – 30, and Ex-SM – 12. The last date for submission of the applications and prescribed cut-off date for determining the eligibility of candidates for the post was 21.11.2017. The respondent applied for the said post.

3. The Physical Endurance Test (in short “PET”) was conducted from 01.03.2019 to 16.04.2019, and results of qualified candidates of PET were declared *vide* Notice No. 781 dated 10.05.2019, with Corrigendum No. 782 *vide* dated 17.05.2019.



4. Thereafter, the Tier-I (G) computer based examination was conducted on 18.06.2019, and marks of the candidates were declared *vide* Notice No. 821 dated 25.09.2019, wherein the cut-off marks for the said post for uploading e-dossiers in UR and OBC categories were 108 and 81.5 marks respectively. The respondents scored the following marks-

S. No.	Name	Category	Marks
1.	Sahil Lohchab	OBC	93.50
2.	Hemant Singh Dagar	OBC	91.50
3.	Mratyunjaya Kumar	UR	114.25

5. The petitioners on the basis of dossiers submitted by the candidates, issued the first Result Notice bearing Notice No. 971 dated 12.03.2020, provisionally selecting 340 candidates for the appointment of the said post.

6. The petitioners then issued the second Result Notice bearing Notice No. 989 dated 10.06.2020, provisionally selecting 40 more candidates for the said post. A Supplementary Result Notice selecting 9 candidates was issued by the petitioners *vide* Notice No. 1019 dated 04.08.2020.

7. The names of the respondents did not appear in the said Result Notices and they were placed in the waitlist panel. The Supplementary Result Notice also declared that recruitment had been closed and waitlist panel of the candidates shall be valid up to 11.03.2021.

8. Thereafter, the respondents, filed applications under Right to Information Act, 2005 (hereinafter referred to as the “RTI”), regarding



the recruitment for said post. The response to the application filed under RTI, was received on 30.09.2021, providing the details of the cancellation the cancellation of 53 dossiers between 04.03.2021 and 06.09.2021.

9. Aggrieved by the fact that the petitioners still did not operate the waitlist panel, the respondents approached the learned Tribunal by filing the aforementioned O.A., with the following prayers:-

- “(i) set aside the impugned Result Notice No. 971 dated 12.03.2020, to the extent it declares that the wait list panel of the candidates shall be valid up to 11.03.2021;*
- (ii) set aside the impugned Supplementary Result Notice No. 1019 dated 04.08.2020, to the extent it declares that the wait list panel of the candidates shall be valid up to 11.03.2021;*
- (iii) declares that the impugned action on the part of the respondents in provisionally selecting only 349 candidates out of 401 total vacancies for the post of Warder (Only for Male) (Post Code:86/17) in the Prison Department, Gov. of NCT of Delhi is illegal as well as unjustified;*
- (iv) direct the respondents to fill all the unfilled vacancies for the post of Warder (Only for Male) (Post Code: 86/17) in the Prison Department, Gov. of NCT of Delhi out of 401 total vacancies as advertised by the Delhi Subordinate Services Selection Board (DSSSB) vide Notice/Advertisement No. 03/17 dated 24.10.2017;*
- (v) direct the respondents to considering the candidature of the applicants for appointment on the post of Warder (Only for Male) (Post Code: 86/17) in the Prison Department, Gov. of NCT of Delhi and, after such consideration, appoint the applicants on the post of Warder (Only Male) (Post Code:86/17) in the Prison Department, Gov. NCT of Delhi with all the consequential benefits (monetary as well as non-monetary) thereof including seniority, full back wages/salary, etc;*
- (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 applications; and*
- (vii) allow the present application with cost in favour of the applicants.”*



10. The learned Tribunal, *vide* the Impugned Order, allowed the O.A. filed by the respondents herein, with the above quoted observations.

11. Aggrieved of the same, the petitioners have approached this Court by way of the instant writ petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONERS

12. The learned counsel for the petitioners argue that the learned Tribunal committed a gross error by directing the petitioners to consider the candidature of the respondents for appointment to the said post, having completely overlooked the fact that the respondents were on a waitlist panel whose validity had expired on 11.03.2021 and the recruitment in question had already been closed.

13. The learned counsel for the petitioners submits that the creation and validity of the waitlist panel by the petitioner no.1 are in strict conformity with the directions and notifications issued by the Services Department, Government of Delhi. The Services Department, *vide* letter F.16(3)/DSSSB/2007-SIII/1635 dated 31.05.2013, approved the drawing of a reserve panel up to 10% of the notified vacancies, valid for one year, which was subsequently implemented by the petitioner no.1 through Notification no. F.1(192)/DSSSB/P&P/13/5363-73 dated 13.06.2013. Further, the petitioner no.1 issued Notification No. F.1(192)/DSSSB/P&P/13/403 *vide* dated 27.06.2018, which superseded the earlier notification, establishing a Select Panel/Waitlist Panel valid for one year to address vacancies arising from non-acceptance, non-joining, ineligibility, or resignation of selected



candidates. Additionally, the petitioner no.1 has been following the Circular No. F.16(3)DSSSB/2007-S-III/1268 *vide* dated 13.06.2019, issued in compliance with the directions of this Court in ***Delhi Subordinate Services Selection Board v. Lokesh Kumar***, 2013 SCC Online Del 947 and ***Amit Kumar And Anr. v. Govt. of NCT of Delhi and Ors.*** (2016:DHC:5589-DB).

14. The learned counsel for the petitioners submits that the O.A. filed before the learned Tribunal does not allege any discrimination or *mala fide* in the recruitment process. He submits that the respondents had solely relied on the information obtained under the RTI and no intimation was ever sent to DSSSB by the user department regarding the 340 candidates until the last date of validity of the waitlist panel, that is, 11.03.2021. As no communication was received, the recruitment were finally closed.

15. The learned counsel for the petitioners relies on ***Shashi Bhushan v. Delhi University***, 2025 SCC OnLine Del 1319, and submitted that it is well-settled that no mandamus can compel the Government or the State to fill specific or all vacancies, as the discretion to fill vacancies rests solely with the competent authority.

16. The learned counsel for the petitioners contends that mere inclusion of a candidate in the merit list does not confer an indefeasible right to appointment and a candidate included in the waitlist cannot seek a writ of mandamus unless arbitrariness or discrimination in the selection process is established.

17. The learned counsel for the petitioners submits, that 401 vacancies were advertised, and the results were declared on



12.03.2020, 10.06.2020, and 4.08.2020, pursuant to which 340, 40, and 9 candidates respectively were selected, bringing the total number of selected candidates to 389. As regards the remaining 12 vacancies, these were horizontally reserved for Ex-servicemen, and in the absence of any candidates of the said category qualifying in the examination, these posts remained unfilled.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS

18. Per contra, the learned counsel for the respondents submits, that the candidature of three candidates was cancelled on 04.03.2021, that is, even prior to the expiry of the waitlist panel. This fact is clearly evident from the reply dated 26.07.2021 received under the RTI from the petitioner no.2.

19. He further submits that although the petitioners declared the last Supplementary Result Notice on 04.08.2020, however, the period of one year validity of the waitlist panel had been incorrectly reckoned from 12.03.2020, that is, the date of the first Result Notice. Despite of having vacancies 401 candidates as per the advertisement, in the first Result Notice dated 12.03.2020, only 340 candidates were provisionally selected. Thereafter, in the second Result Notice dated 10.06.2020, 40 more candidates were provisionally selected, and in the Supplementary Result Notice dated 04.08.2020, 9 additional candidates were provisionally selected. Therefore, the one-year validity of the waitlist panel ought to have been reckoned from the declaration of the Supplementary Result Notice dated 04.08.2020, and not from the first Result Notice dated 12.03.2020.



20. The learned counsel for the respondents places reliance on the judgment of this Court in **Delhi Subordinate Services Selection Board v. Lokesh Kumar**, 2013 SCC Online Del 947, wherein it was directed that the e-dossiers of all shortlisted candidates, whether in the selection list, waiting list, or reserve list, must be forwarded to the user department. It was submitted that despite the aforesaid directions, petitioner no.1 has failed to comply with the same till date. In view of the said Judgment, it was urged that petitioner no.1 ought to have forwarded the e-dossiers of all shortlisted candidates, who had duly uploaded the same, to the user department, namely the petitioner no.2

21. The learned counsel for the respondents further submits that due to delay by the petitioners in completing the appointment process, 105 vacancies for the said post in the petitioner no.2 have remained unfilled, despite the availability of eligible candidates in the waitlist panel, as is evident from the reply received from the petitioner no. 1 to the application dated 06.09.2021 filed under RTI. It was further submitted that such inaction violates the law laid down by the Supreme Court in **Dinesh Kumar Kashyap vs. South East Central Railway & Ors.** (2019) 12 SCC 798, which mandates that the employer must make all efforts to fill advertised vacancies.

ANALYSIS AND FINDING

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

23. The issue that arises for consideration is whether the waitlist ought to have remained operative till August 2021, which is one year from the date of publication of the Supplementary Result Notice dated



04.08.2020.

24. In terms of the Paragraph (b) of the Notification dated 13.06.2013, the petitioners were directed to draw a reserve/waitlist panel of up to the extent of 10% of the post notified, in addition to the candidates selected as per the notified vacancies. The Paragraph (b) of the Notification reads as under:

“b) The waiting/reserve panel shall be valid for a period of one year from the date of declaration of the result. Vacancies arising due to non-acceptance of the offer of appointment, failure to join the post after acceptance, resignation after joining, or similar reasons within the one-year validity of the panel shall be filled from this waiting/reserve panel.”

25. It is evident from the above notification that the reserve/waitlist panel shall remain valid for a period of one year from the date of declaration of the result and shall be utilized to fill vacancies arising due to non-acceptance of the offer of appointment, among other reasons.

26. In the present case, the result, which was declared on 12.03.2020, cannot be said to be the final result inasmuch as it was provisional in nature for various candidates, with their eligibility still to be determined. It was also not for all the vacancies notified. The final result, if at all, was declared only on 04.08.2020. Accordingly, the period of validity of the waitlist panel must be reckoned from 04.08.2020, extending up to 03.08.2021. The aforesaid principle has been reiterated in a recent decision of this Court in ***Govt Of NCT Of Delhi And Ors. v. Kusum Lata & Anr.*** (2025:DHC:7559-DB). The



relevant portion of the aforesaid Judgement reads as under:-

“11. We have considered the submissions made by the learned counsels for the parties. In terms of the Notification dated 13.06.2013, the petitioner no. 2 has been directed to draw a reserve panel of up to the extent of 10% of the post notified, in addition to the number of candidates selected as per the notified vacancies.

12. The above notification clearly states that the reserve/waiting list panel shall be valid for a period of one year from the date of declaration of result and on the vacancies arising due to non acceptance of offer of appointment etc.

13. In the present case, the result which was declared on 18.07.2016, cannot be said to be the final result inasmuch as it was provisional in nature for various candidates with their eligibility still to be determined. The final result, if at all was declared only on 16.08.2017. Due to non-joining of certain candidates, their candidatures had been cancelled on 29.09.2017 up till 08.11.2017, that is, within the validity period of the reserve panel reckoned from 16.08.2017. Therefore, the reserve panel had to be operated by the petitioners.

14. We, accordingly, find no infirmity in the direction issued by the learned Tribunal.”

27. Further, the learned Tribunal rightly observed, and it is evident from the response to the applications filed under the RTI, that the joining process for the said post were started on 17.06.2020, that is from the date when the dossiers were received from the petitioner no.1. By the said replies, it was further admitted that four dossiers were returned on 04.03.2021, prior to the expiry of the waitlist panel, yet the panel was not operated. Additionally, the response of the applications filed under RTI shows that 53 dossiers were cancelled up to 03.08.2021. Therefore, all cases of non-joining or cancellation of candidatures between 04.08.2020 and 03.08.2021, fall within the



validity of the reserve panel, and the reserve panel ought to have been operated by the petitioners.

28. This Court is of the considered view that a waitlist panel cannot be permitted to operate in a segregated manner. Where a selection process involves a provisional result, followed by Supplementary or additional result, the waitlist panel cannot be considered to operate in fragments corresponding to subsequent declarations of results.

29. It is also pertinent to note that, as revealed through the reply dated 26.07.2021 under RTI received from the petitioner no.2, the results were declared in March, 2020 and the department received the dossiers on 17.06.2020. Three months were therefore, lost in this process itself.

30. Further the petitioner no. 1 did not send the dossiers of all the selected candidates, including those in the waitlist, to the petitioner no. 2. This action runs contrary to the settled principles laid down in **Lokesh Kumar** (supra), wherein the Court categorically observed that the Selection Board is required to forward the names of all candidates who have secured marks above the prescribed cut-off to the concerned office/department. The relevant paragraph is extracted hereinbelow for ready reference.

“11. Before bringing the curtains down we wish to bring on record that the budget of the Delhi Subordinate Services Selection Board runs into crores of rupees every year. It is the duty of the Selection Board to ensure that as far as possible every vacancy notified to be filled up is filled up if eligible candidates are available. It does not sub-serve public interest if public post remains unfilled. We are finding in very second litigation being fought against



the Selection Board that a panel is drawn up limited to the number of vacancies notified to the Selection Board by the Government of Delhi or autonomous bodies under the aegis of the Government of Delhi. The Selection Board does not scrutinize the certificates filed by the applicants before permitting them to take the competitive examinations. The result is that if 10 vacancies have to be filled up, a Select Panel of 10 is drawn up. Thereafter, the said 10 candidates are called for the certificate submitted by them to be verified. If any deficiency is found or noted in a certificate issued, the empanelled candidate is de-empanelled and the Board then takes a stand that since it has not drawn up a reserve list, it would not forward the name of the next selected candidate who is also above the qualifying mark limit prescribed. Not only does this breed litigation but even results in public posts remaining unfilled. As in the instant case, the Delhi Jal Board urgently requires an Assistant Chemist and we have respondent No. 1 as a selected candidate but yet the post is not being filled up because the Selection Board is refusing to send the dossier of respondent No. 1 to the Delhi Jal Board. **We make it clear that the decision to fill up or not fill up the vacancy cannot be the decision of the Selection Board, which is merely a recruiting agency. The employer is not the Selection Board. The office or the department of the Government which sends the requisition to the Selection Board would alone have the right to determine whether or not to fill up the vacancy. In future the Selection Board would forward the names of all candidates who have secured marks above the eligible cut-off mark to the office or the department which has sent the requisition to the Selection Board to conduct the examination. It would then be for the said department to decide whether or not it would like to have candidates in the wait list. This would ensure that it is the employer who**



would decide whether to fill up the vacancy from the wait listed candidate if the candidates in the select list are found either ineligible or do not respond to the letters offering appointment.”

(Emphasis supplied)

31. While there can no cavil to the proposition of law that a candidate in the reserve panel does not have an indefeasible right to appointment, however, at the same time, the reserve panel, if mandated by the Rules to be operated, must be operated in the right spirit and cannot be allowed to be defeated by the casual approach of the petitioners.

32. This Court finds it appropriate to take note of the ruling in **Dinesh Kumar Kashyap** (supra), as cited by the respondents. The relevant extract is reproduced below:

“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.”

(Emphasis supplied)

33. Therefore, vacancies which arose due to cancellation or non-joining of candidates within the validity period were required to be filled from the waitlist panel, in accordance with settled principles of fair and non-arbitrary recruitment.

34. Accordingly, no infirmity is found in the Impugned order.

35. The petition is dismissed. The pending applications are disposed of. The parties shall bear their own costs.

MADHU JAIN, J

NAVIN CHAWLA, J.

OCTOBER 28, 2025/ys/RM/HS