



2025:DHC:7686-DB



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

Date of decision: 03.09.2025

+ W.P.(C) 13553/2025

COMMISSIONER DELHI POLICE

.....Petitioner

Through: Mr.Ankur Mittal, CGSC with
Mr.Aviraj Pandey, Adv.

versus

UTTAM KUMAR

.....Respondent

Through: Mr.Shivanshu Bhardwaj &
Mr.Himanshu Bhardwaj, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

CM APPLs. 55554/2025 & 55556/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 13553/2025 CM APPLs. 55555/2025 & 55557-58/2025

2. This petition has been filed, challenging the Order dated 07.07.2025, passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal'), in O.A. No. 463/2024, titled ***Uttam Kumar v. Commissioner Delhi Police & Anr.***, whereby the learned Tribunal allowed the O.A. filed by the respondent herein with the following directions:-

“8. Accordingly, we are of the considered opinion that this OA has merit; deserves to be allowed and is accordingly allowed, The respondents are directed to give the applicant an opportunity to appear for Physical



Endurance and Measurement Test (PE&MT) for the post of Constable (Executive) Male in Delhi Police Examination – 2023 (as he is already meritorious having scored 67.88 marks against the cut off marks of 66.81 of shortlisted candidates under OBC category) and if otherwise found suitable consider him appointing to the post of Constable (Executive) Male in OBC category. This exercise should be completed within a period of three months from the date of receipt of a certified copy of this order. Needless to mention that the applicant would be entitled to get all notional benefits like seniority and fixation of pay and allowances. However, there will be no payment of arrear of salary on the principle of 'No work no pay.'

3. The respondent had participated in the selection process for the post of Constable (Executive) Male, pursuant to the advertisement issued by the petitioner on 01.09.2023 for the post of Constable (Executive) Male and Female in the Delhi Police Examination-2023. Having successfully cleared the written examination, he was called upon to appear for the Physical Endurance and Measurement Test (hereinafter referred to as the 'PE&MT') on 14.01.2024.

4. The recruitment notice, under Clause 11, stated that the date, time, and venue of the PE&MT would be final and that no request for change would be entertained. It was further stipulated that if a candidate fails to attend the PE&MT on the scheduled date and time, he would be treated as absent, and no request in any form, whether by post, by hand, or through e-mail, etc., would be entertained under any circumstances. We quote from the notice as under:-

“11. The date, time & venue of PE&MT is FINAL and no request for change will be entertained in case a candidate FAILS to



attend the PE&MT on the schedule date & time, he will be treated as ABSENT and no request in any form for next date through post/by-hand/e-mail etc. will be entertained under any circumstances. The Candidate is advised to reach at least one day in advance near his/her PE&MT venue. The candidate is also advised to get sufficient clothing as per prevailing weather condition”.

5. The respondent, however, on 13.01.2024, that is, one day prior to his scheduled date for the PE&MT, submitted a representation to the petitioner, stating that he was unwell and requesting postponement of the PE&MT. The representation remained unanswered. The respondent again submitted a similar representation on 14.01.2024, which also remained unanswered.

6. It is pertinent to note that the PE&MT exercise was scheduled to be conducted during the period from 13.01.2024 to 20.01.2024. The petitioner finalized the results on 24.01.2024, whereafter the respondent once again made a representation seeking an opportunity to appear for the PE&MT. Upon receiving no response, he approached the learned Tribunal by way of the above O.A., which was allowed with the following observations:—

“7. Be that as it may, we are of the considered opinion that the applicant is otherwise meritorious having scored 67.88 marks which are higher than 66.81 marks - marks for the last selected candidates under OBC category. He deserves an empathetic view as he is from a poor family and comes from the lower strata of the society and moreover this Is a question of livelihood (employment) Issue for him. Therefore, he deserves to be given another opportunity to appear in the Physical Endurance and



Measurement Test (PE&MT) which he sadly missed due to his illness. The respondents have been unduly harsh and grossly unsympathetic in not giving him another opportunity for the PE&MT which violates Article 14 - Right to equality and equality before Law and Article 16 - Equality of opportunity in matters of Public employment. We are of the considered opinion that ours Is a 'Welfare State' and the Government and its instrumentalities must be 'model and empathetic employers'."

7. The learned counsel for the petitioner submits that the learned Tribunal has failed to appreciate the mandate of Clause 11 of the recruitment notice, which clearly stipulated that no change of date or time of the PE&MT would be permitted. He submits that since the respondent failed to appear for the PE&MT on the scheduled date, his candidature was rightly rejected, and no relief could have been granted. He further submits that the reliance placed by the Tribunal on the judgment of this Court in ***Vishesh v. Commissioner of Police & Ors.***, 2023:DHC:3170-DB, was misplaced, inasmuch as in the present case, there existed a specific clause categorically warning candidates that no change in the date of the PE&MT would be entertained. He submits that no reserve date was also stipulated in the recruitment notice. It is further submitted that 7,547 vacancies had been advertised, for which twelve times the number of candidates were called for the PE&MT, and any alteration in the schedule would render the entire exercise endless. Therefore, the stipulation that no request for change would be entertained, was both necessary and justified.



8. On the other hand, the learned counsel for the respondent, who appears on advance notice of this petition, submits that there is no dispute regarding the medical condition of the respondent. He submits that the respondent had submitted representations dated 13th and 14th January, 2024, by hand through his mother, which remained unanswered, let alone rejected by the petitioner. He further submits that as the PE&MT exercise continued until 20.01.2024, there was no reason why reschedulement could not have been granted for reasons beyond the control of the respondent. He also relies on the judgment of this Court in *Vishesh* (supra), where, in similar circumstances, the candidate was permitted to participate in the next PE&MT exercise.

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

10. In the present case, there is no dispute by the petitioner regarding the medical condition of the respondent, due to which he could not appear for the PE&MT on the scheduled date, that is, 14.01.2024. While the stipulation in Clause 11 of the notice would, and should, ordinarily be strictly applied, we are of the view that in the matters of recruitment, a certain discretion still vests with the employer, particularly when unforeseen circumstances are faced either by the employer or by a candidate. A meritorious candidate should not lose an opportunity to government employment only because of 'act of God' or circumstances beyond the control of such candidate. Rigidly applying rules in such cases would do injustice to such candidate.



11. In the present case, the PE&MT exercise was to continue until 20.01.2024. It is not disputed that the respondent had secured a meritorious position in the written examination. Recruitment to the Government position is not easy, and the respondent, in the present case, has specifically stated that he belongs to a lower stratum of the society. In these peculiar facts, the least that could have been expected from the petitioner, was a response to the respondent's representation dated 13.01.2024 and 14.01.2024, so that the respondent could have decided whether, despite his ill health, he wished to appear for the PE&MT on 14.01.2024, the scheduled date. By not responding to the said representation, the petitioner effectively denied him the opportunity to appear on that date.

12. In **Vishesh** (supra), in similar circumstances, this Court had observed as under:-

“9. Having heard the learned counsel for the parties and perusing the medical prescriptions enclosed alongwith the Writ Petition, we find that the petitioner could not appear in the Physical Endurance Test (PET) on March 15, 2023 because of the injury. Immediately on the same day, a request has been made by the mother of the petitioner. It is not disputed that a further date of April 28, 2023, was also fixed, for PET, but the petitioner could not appear as his request was not acceded to by the respondents, for the reasons already stated above. According to us, the Tribunal should have in the earlier round of litigation, knowing well that the next date of Physical Endurance Test (PET) is April 28, 2023, allowed the petitioner to participate in the same. Having not done that and the order which has been passed by the respondents rejecting the request of the petitioner to participate in the



Physical Endurance Test (PET) on the ground that the date is final is prima facie not appealing. In the facts of this case, the respondents do not deny that the petitioner has suffered an injury. They also do not contest the medical prescriptions attached alongwith the Writ Petition. This Court is of the view that the respondents should be directed to allow the petitioner to participate in the Physical Endurance Test (PET) on the date when the Physical Endurance Test (PET) is to be held for departmental candidates, but in the manner required under the rules for the to which the petitioner had applied, to enable the petitioner participate in the Physical Endurance Test (PET). This we say so, any delay may cause prejudice to the petitioner. We are told the dates are 9", 10" and 11" of May, 2023. We accordingly, fix the date for participation of the petitioner in PET as May 11, 2023 at 6:00 am. The said Physical Endurance Test (PET) shall be supervised by the same Medical Board as is entitled to be supervised for the post concerned. The petitioner shall report to the concerned officer at 6:00 AM on May 11, 2023."

13. It appears that in **Vishesh** (supra) as well, a contention was raised by the petitioners that the date for the Physical Endurance Test (PET) is sacrosanct, however, this Court did not find merit in the said contention.

14. For the reasons stated hereinabove, we do not find this to be a fit case for interfering with the Impugned Order in the exercise of our power under Article 226 of the Constitution of India.

15. In the peculiar facts of the present case, the petition, along with the pending applications, is dismissed.



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16. However, we modify the direction issued by the learned Tribunal to the limited extent, that the petitioner should conduct the PE&MT of the respondent along with the next batch. We further make it clear that once the date thereof is communicated to the respondent, the same shall be sacrosanct and shall not be extended for any reason whatsoever.

NAVIN CHAWLA, J

MADHU JAIN, J

SEPTEMBER 3, 2025/rv/DG