



2026:DHC:5892-DB



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

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Judgment reserved on: 26.02.2026

Judgment pronounced on: 24.07.2026

Judgment uploaded on: 24.07.2026

+ W.P.(C) 217/2025

PAWAN KUMAR (INSPECTOR) & ANR.Petitioners

Through: Mr. Ravi Prakash, Sr. Adv.
with Mr. Taha Yasin, Adv.

versus

UNION OF INDIA & ANR.Respondents

Through: Mr. Chetan Sharma, ASG with
Ms. Avshreya Pratap Singh
Rudy, CGSC with Ms. Usha
Jamnal, Ms. Nyasa Sharma, Mr.
Ankit Khatri, Amit Gupta, Mr.
R.V. Prabhat, Mr. Shubham
Sharma, Mr. Yash Wardhan
Sharma, & Mr. Namam, Advs.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. The issue which arises for consideration in the present Petition is whether the Petitioners, serving as Inspectors (Stenographers) in the Delhi Police, acquire an enforceable legal right to claim assignment of the Functional Rank of Assistant Commissioner of Police ['ACP'], merely because the Screening Committee recommended their names for grant of such Functional Rank w.e.f.15.08.2022, notwithstanding



the fact that they did not satisfy the eligibility criteria prescribed by the Delhi Police as on the prescribed cut-off date and no final order assigning such Functional Rank was ever issued.

2. Through the present Petition, the Petitioners assail the correctness of the order dated 02.12.2024 ['Impugned Order'] passed by the learned Central Administrative Tribunal ['the Tribunal'] in O.A. No.582/2024, whereby the Original Application preferred by them came to be dismissed. The Petitioners also pray for setting aside the speaking order dated 01.08.2023 issued by Respondent No.2, rejecting their claim for assignment of the Functional Rank of ACP (Stenographer), and consequently seek a direction to the Respondents to assign them the said Functional Rank w.e.f.26.05.2022 along with all consequential benefits.

FACTUAL MATRIX

3. In order to appreciate the controversy involved in the present Petition, the relevant facts, in brief, are required to be noticed.

4. Petitioner No.1, Pawan Kumar, was appointed as Assistant Sub-Inspector (Stenographer) in the Delhi Police on 04.11.1992, whereas Petitioner No.2, Virender Singh, was appointed to the said post on 05.02.1993. Both the Petitioners were subsequently promoted to the post of Inspector (Stenographer) on a regular basis w.e.f.14.08.2012.

5. During the year 2022, the Delhi Police introduced a system of assigning Functional Ranks to its personnel with the objective of addressing functional requirements arising out of organisational



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restructuring and alleviating stagnation at different levels. It is not in dispute that the assignment of Functional Rank was not treated as a regular or *ad hoc* promotion, nor was it intended to confer any financial, pensionary or seniority-related benefits. Different eligibility criteria were adopted for different cadres keeping in view their respective service structures and functional requirements.

6. Pursuant to the aforesaid exercise, Respondent No.2 issued an order dated 26.05.2022 assigning the Functional Rank of ACP to 67 eligible Inspectors belonging to different cadres. Thereafter, by orders dated 07.06.2022 and 06.07.2022, the benefit was extended to 53 and 21 additional Inspectors respectively.

7. The grievance of the Petitioners is that although certain Inspectors (Stenographers), who according to them were junior in service, were assigned the Functional Rank of ACP, their names did not find place in the aforesaid orders. Aggrieved thereby, the Petitioners submitted representations requesting that they too be assigned the Functional Rank of ACP from the same date.

8. The record reveals that a meeting of the Screening Committee was held on 15.07.2022 to consider the cases of eligible Inspectors/ Sub-Inspectors for grant of Functional Rank of ACP. The minutes thereof indicate that names of the Petitioners were recommended for the same w.e.f. 15.08.2022 and the recommendation was subject to vigilance clearance. Thereafter, Respondent No.2 issued an order dated 16.07.2022 assigning the Functional Rank of ACP to 119 Inspectors belonging to different cadres. The said order further records



that the names of the Petitioners were recommended for assignment of the Functional Rank of ACP w.e.f. 15.08.2022, subject to vigilance clearance and issuance of a separate formal order. Admittedly, however, no final order assigning the Functional Rank of ACP to the Petitioners was ever issued.

9. Since no consequential order was issued despite the recommendation of the Screening Committee, the Petitioners approached the Tribunal by filing O.A. No.1423/2023 seeking implementation of the recommendation and assignment of the Functional Rank of ACP.

10. The Tribunal, by an order dated 15.05.2023, disposed of the aforesaid Original Application without entering into the merits of the controversy. Having noticed that a similar issue had earlier been considered by the Tribunal in O.A. No.3294/2022, the Respondents were directed to decide the Petitioners' pending representations in terms of the decision rendered therein within a period of 60 days.

11. In compliance with the aforesaid directions, Respondent No.2 passed a speaking order dated 01.08.2023 rejecting the Petitioners' claim. It was, *inter alia*, recorded that no representation dated 16.07.2022 had been received in the office. More importantly, the competent authority held that the Petitioners were not eligible for assignment of the Functional Rank of ACP since they had neither completed 30 years of service from the date of their initial appointment as Assistant Sub-Inspector (Stenographer) nor had they been granted the 3rd financial upgradation under the Modified Assured



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Career Progression [‘MACP’] Scheme as on the prescribed cut-off date of 30.06.2022, both of which constituted the eligibility criteria prescribed by Delhi Police for assignment of Functional Rank of ACP in the Stenographer cadre.

12. The speaking order further records that although the Screening Committee, in its meeting held on 15.07.2022, had recommended inclusion of the Petitioners by adopting another criterion so as to assign them the Functional Rank upon completion of 10 years in the rank of Inspector (Stenographer), the proposal never culminated into a final order because, in the meanwhile, the Ministry of Home Affairs [‘MHA’] raised objections regarding the policy adopted by the Delhi Police for assignment of Functional Ranks. Consequently, the process of assigning Functional Ranks was kept in abeyance.

13. Aggrieved by the rejection of their claim, the Petitioners initiated contempt proceedings before the Tribunal alleging non-compliance of the order dated 15.05.2023. The Contempt Petition came to be disposed of on 25.09.2023 upon the Tribunal observing that its directions stood complied with by virtue of the speaking order dated 01.08.2023, while reserving liberty to the Petitioners to avail such remedies as may be available in law.

14. The Petitioners thereafter instituted W.P.(C) No.1694/2024 before this Court challenging the order dated 25.09.2023 passed in the contempt proceedings. During the course of hearing, the Petitioners sought permission to withdraw the same with liberty to challenge the speaking order dated 01.08.2023 before the appropriate forum.



Accordingly, the writ petition was disposed of as not pressed by order dated 06.02.2024, reserving liberty in the aforesaid terms.

15. Pursuant thereto, the Petitioners instituted O.A. No.582/2024 before the Tribunal challenging the speaking order dated 01.08.2023 and seeking assignment of the Functional Rank of ACP w.e.f. 26.05.2022 along with all consequential benefits.

16. Upon consideration of the rival submissions, the Tribunal, by the Impugned Order, dismissed O.A. No.582/2024 holding that the Petitioners admittedly did not fulfil the eligibility conditions applicable to the Stenographer cadre on the prescribed cut-off date and, therefore, could not claim parity with those who were otherwise eligible. It was further held that the recommendation made by the Screening Committee did not create any enforceable right in favour of the Petitioners, particularly when the recommendation itself had not culminated into a final order and the process of assigning Functional Ranks had, in the meantime, been kept in abeyance.

17. Aggrieved thereby, the Petitioners have preferred the present Writ Petition.

CONTENTIONS OF THE PARTIES

18. Contentions of the Petitioners

18.1. Learned senior counsel for the Petitioners contended that although the Petitioners are substantively senior in the Stenographer Cadre, several officers junior to them have admittedly been granted the Functional Rank of ACP, thereby resulting in hostile



discrimination without any rational basis.

18.2. It was contended that the principal ground assigned in the speaking order dated 01.08.2023 that the Petitioners had not completed 30 years of service as on the prescribed cut-off date, is wholly untenable. It was argued that neither any statutory rule nor any executive instruction prescribing completion of 30 years' service as an essential eligibility condition applicable to the Stenographer Cadre has been placed on record by the Respondents. It was further submitted that numerous officers belonging to various cadres, including supporting cadres, who had admittedly rendered substantially lesser length of service, were nevertheless granted the Functional Rank of ACP under the orders dated 26.05.2022, 07.06.2022 and 06.07.2022. According to learned senior counsel, the selective insistence upon completion of 30 years' service only in the case of the Petitioners renders the impugned action arbitrary and discriminatory.

18.3. It was further submitted that the Respondents have sought to distinguish the Executive Cadre from the Stenographer Cadre without identifying any statutory provision, policy decision or administrative instruction authorising such distinction. It was submitted that the Functional Rank of ACP was extended to officers belonging not only to the Executive Cadre but also to several supporting cadres, including the Computer Cadre and Statistics Cadre, who had rendered considerably lesser service. It was, therefore, contended that the distinction sought to be drawn by the Respondents lacks any legal foundation and cannot justify differential treatment amongst similarly situated officers.



18.4. Learned senior counsel further assailed the second ground contained in the speaking order that the Petitioners had not been granted the 3rd financial upgradation under the MACP Scheme. It was submitted that this condition is equally unsustainable inasmuch as several officers were granted the Functional Rank of ACP even though the benefit of the 3rd MACP was extended to them only subsequently. It was, therefore, argued that the Respondents cannot now seek to deny the Petitioners the Functional Rank by making acquisition of the 3rd MACP a mandatory eligibility condition.

18.5. It was further submitted that the Respondents have wrongly relied upon the communications issued by the MHA to justify non-implementation of the recommendation made in favour of the Petitioners. It was argued that the communications dated 29.06.2022 and 07.12.2022 merely sought clarification regarding the legal authority under which the Functional Rank scheme had been introduced and thereafter directed discontinuance of the scheme prospectively. According to learned senior counsel, neither communication directed withdrawal of the Functional Rank already granted to similarly situated officers. It was, therefore, submitted that having allowed the Functional Rank already granted to numerous officers to continue, the Respondents cannot selectively rely upon the MHA communications only to deny the Petitioners similar treatment.

18.6. In support of the aforesaid submission, reliance was placed upon the decision dated 10.01.2024 titled ***Commissioner of Police, Delhi & Anr. v. Sanjay Bhardwaj*** in W.P.(C) 16042/2023, wherein this Court held that so long as the Functional Rank already granted to



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similarly situated officers had not been withdrawn, another similarly situated officer could not be denied the same benefit merely because the issue was under consideration before the MHA.

18.7. It was further submitted that the Petitioners were promoted as Inspectors (Stenographers) on 14.08.2012, whereas several officers who were promoted to the same rank at a much later point of time were nevertheless granted the Functional Rank of ACP under the order dated 26.05.2022. It was argued that one such officer was even assigned the Functional Rank prior to her regular promotion as Inspector. The grant of Functional Rank to officers junior to the Petitioners while denying the same benefit to the Petitioners destroys the established hierarchy within the Delhi Police and results in manifest arbitrariness.

18.8. It was next submitted that the Screening Committee, upon reconsideration of the Petitioners' cases, found them suitable for assignment of the Functional Rank of ACP w.e.f. 15.08.2022, and the recommendation was thereafter approved by the Commissioner of Police acting as the competent authority. Therefore, once the competent authority had approved the recommendation, the Respondents could not subsequently decline implementation thereof on grounds which had already stood considered.

18.9. It was lastly submitted that the Petitioners are entitled to parity with officers similarly situated who have already been granted the Functional Rank of ACP. Reliance was placed upon the judgments of



the Supreme Court in *Yashbir Singh v. Union of India*¹ and *State of Uttar Pradesh v. Arvind Kumar Srivastava*², to contend that seniority in the promoted post is to be determined with reference to the date of promotion and that identically situated employees cannot be denied the benefit already extended to others.

19. Contentions of the Respondents

19.1. *Per contra*, learned ASG appearing on behalf of the Respondents submitted that the Functional Rank scheme introduced by the Delhi Police was neither a regular promotion nor an *ad hoc* promotion. The assignment of Functional Rank was merely an administrative arrangement devised to meet operational requirements of the organisation and to address stagnation in different cadres. It was emphasised that assignment of Functional Rank did not confer any right relating to seniority, pay, pension or promotional benefits and, therefore, could not be equated with promotion under the applicable recruitment rules.

19.2. It was further contended that different eligibility criteria were consciously prescribed for different cadres having regard to their distinct service structures, promotional avenues and functional requirements. Insofar as the Stenographer Cadre is concerned, the competent authority had prescribed that only those Inspectors (Stenographers) who had completed 30 years of service from the date of their initial appointment as Assistant Sub-Inspector (Stenographer) and had also been granted the 3rd financial upgradation under the

¹ (1987) 4 SCC 345

² (2015) 1 SCC 347



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MACP Scheme as on the prescribed cut-off date i.e., 30.06.2022, were eligible for assignment of the Functional Rank of ACP.

19.3. It was submitted that it is an admitted position that neither of the Petitioners fulfilled the aforesaid eligibility conditions as on the relevant cut-off date. Since the Petitioners themselves were ineligible, no legal right accrued in their favour to seek assignment of the Functional Rank of ACP and, consequently, the competent authority rightly rejected their representations by the speaking order dated 01.08.2023.

19.4. It was next argued that the recommendation made by the Screening Committee in its meeting held on 15.07.2022 did not confer any enforceable or vested right upon the Petitioners. It was submitted that the recommendation itself was expressly made subject to vigilance clearance as well as issuance of a separate formal order by the competent authority. Since no such order was ever issued, it was contended that the recommendation remained inchoate and incapable of enforcement in law.

19.5. It was further submitted that before any final order could be issued pursuant to the recommendation of the Screening Committee, the MHA raised objections regarding the legality of the Functional Rank scheme and directed that the process be halted. Thereafter the Commissioner of Police could not proceed with assignment of the Functional Rank of ACP which, according to the Respondents, fell within the domain of the MHA. It was contended that although Functional Ranks upto the level of Inspector continued to be assigned



wherever permissible, no Functional Rank from Inspector to ACP came to be assigned thereafter.

19.6. It was further submitted that under the scheme of the Delhi Police Act, 1978, the Commissioner of Police exercises his powers subject to the superintendence of the Administrator and possesses no independent statutory authority to assign the Functional Rank of ACP. It was contended that assignment of Functional Rank beyond the level of Inspector fell within the domain of the MHA and, therefore, no direction could be issued requiring implementation of the recommendation made by the Screening Committee.

19.7. It was argued that the Petitioners cannot claim parity with officers who had already been assigned the Functional Rank of ACP under earlier orders. According to learned ASG, the principle of equality under Articles 14 and 16 of the Constitution applies only amongst persons who are similarly situated in law. Since the Petitioners admittedly did not satisfy the eligibility conditions applicable to the Stenographer Cadre, they could not seek parity with officers who were found eligible and were granted the Functional Rank in accordance with the applicable criteria.

19.8. It was also submitted that the challenge founded upon the alleged grant of Functional Rank to officers belonging to other cadres is misconceived. It was contended that the Executive Cadre, Stenographer Cadre and other supporting cadres constitute distinct service streams governed by different eligibility norms formulated having regard to their respective organisational structures,



promotional avenues and functional requirements. Therefore, no comparison can be drawn between officers belonging to different cadres for the purpose of claiming parity in assignment of Functional Rank.

19.9. In support of the aforesaid submission, reliance was placed upon the judgment of the Supreme Court in ***SI Paras Kumar & Ors. v. SI Ram Charan & Ors.***³, to contend that administrative arrangements or *ad hoc* assignments *dehors* the governing statutory framework cannot confer any enforceable right to promotion or higher rank. It was lastly contended that the scope of judicial review in service matters does not extend to directing the Government to implement an administrative recommendation which never culminated into a final decision. It was submitted that since the recommendation of the Screening Committee was never accepted by issuance of a formal order and no enforceable right ever accrued in favour of the Petitioners.

ISSUES FOR DETERMINATION

20. Having heard the rival submissions on behalf of the parties, the following issues arise for determination:

- i. Whether the Petitioners, who admittedly did not fulfil the eligibility criteria prescribed by the Delhi Police for assignment of the Functional Rank of ACP in the Stenographer Cadre as on the prescribed cut-off date, can nevertheless claim such Functional Rank on the basis of the recommendation made by the

³ (2004) 6 SCC 88



Screening Committee dated 15.07.2022?

ii. Whether the recommendation made by the Screening Committee, which was expressly made subject to vigilance clearance and issuance of a separate formal order and admittedly never culminated into a final order, created any enforceable or vested right in favour of the Petitioners?

iii. Whether the Petitioners are entitled to claim parity with other officers who were assigned the Functional Rank of ACP, so as to invoke Articles 14 and 16 of the Constitution of India and seek issuance of a writ directing the Respondents to confer the said Functional Rank upon them?

ANALYSIS & FINDINGS

21. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record.

Re: Issue I

22. At the outset, it requires to be noticed that the Functional Rank scheme introduced by the Delhi Police in the year 2022 does not partake the character of a promotion governed by the statutory recruitment rules. The material placed on record unmistakably demonstrates that the assignment of Functional Rank was conceived purely as an administrative arrangement intended to address organisational requirements arising from restructuring of the force and to mitigate stagnation within various cadres. Equally significant is the fact that assignment of Functional Rank did not entail any



enhancement in pay, seniority, pensionary benefits or promotional entitlement. It merely authorised an officer to discharge higher functional responsibilities without altering his substantive status in service. The distinction between a statutory promotion and assignment of a Functional Rank assumes considerable significance while examining the legality of the Petitioners' claim.

23. It is equally evident from the record that the Functional Rank scheme was not implemented uniformly across all cadres. On the contrary, the competent authority consciously prescribed distinct eligibility criteria for different cadres keeping in view their respective organisational structure, promotional avenues and functional requirements. At this stage, it would be apposite to reproduce the eligibility criteria adopted by the Respondent No.2 for the purpose of assigning functional rank of ACP to the Inspectors (Executive/Support cadres), which reads as under:

S.No.	Rank/Cadre	Eligibility criteria for assigning functional rank
1	<i>Inspr. To ACP</i> <i>(Executive Cadre)</i>	<i>As per seniority in the rank of Inspr. (Exe.) who were initially appointed as SI (Exe.) and as per functional requirement as on cut off date i.e. 30.06.2022.</i>
2	<i>Inspr. To ACP (all Support Cadre)</i>	<i>i. Direct entry as ASI (Steno., Radio Tech., Finger Print Bureau etc.) on completion of 30 years of service and having granted 3rd Financial up-gradation under MACP Scheme as on cut off date i.e. 30.06.2022.</i> <i>ii. Direct entry as SI (Draftsman, JRO, Statistician, Computer etc.) on completion of 20 years of service and having granted 2nd Financial up-gradation under MACP Scheme as on cut off date i.e. 30.06.2022.</i> <i>iii. Direct entry as Insprs. (Computer) on</i>



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		completion of 10 years of service and having granted 1 st MACP Scheme as on cut off date i.e. 30.06.2022.
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24. Applying the aforesaid eligibility criteria to the facts of the present case, the admitted factual position leaves little scope for controversy. Petitioner No.1 was appointed as Assistant Sub-Inspector (Stenographer) on 04.11.1992, whereas Petitioner No.2 entered service on 05.02.1993. Consequently, as on the prescribed cut-off date of 30.06.2022, neither of the Petitioners had completed 30 years of service from the date of their initial appointment. It is equally undisputed that neither of them had been granted the 3rd financial upgradation under the MACP Scheme by the said date. Thus, on the Respondents' own eligibility criteria governing the Stenographer Cadre, both the Petitioners stood outside the zone of eligibility on the relevant date.

25. The contention that the aforesaid eligibility conditions cannot be enforced merely because they are not traceable to a statutory rule or executive instruction having the force of law does not merit acceptance. Once it is accepted that the Functional Rank itself is not a statutory promotion but merely an administrative mechanism evolved to meet functional exigencies, the authority introducing such an administrative arrangement necessarily possesses the discretion to prescribe the conditions governing its implementation, subject to the constitutional limitations. In matters relating to service administration, the employer is entitled to formulate eligibility criteria appropriate to the object sought to be achieved, provided such criteria are neither arbitrary, *mala fide* nor violative of any constitutional or statutory



mandate. Merely because such conditions are not incorporated in statutory recruitment rules does not, by itself, render them unenforceable or legally unsustainable.

26. It is equally well settled that the scope of judicial review in matters concerning prescription of eligibility conditions is extremely limited. The determination of the qualifications or service parameters necessary for extending a particular administrative benefit falls primarily within the domain of the employer. Unless the criteria prescribed are demonstrated to be manifestly arbitrary, irrational or actuated by *mala fides*, the Court would be slow to substitute its own view for that of the competent authority. In the present case, the Petitioners have not laid any challenge to the validity of the eligibility criteria themselves. Their endeavour is essentially to seek exemption from those very conditions on the ground that they ought to have been treated differently. Such a claim, in the considered opinion of this Court, cannot be accepted in exercise of the power of judicial review under Article 226 of the Constitution.

27. The comparison sought to be drawn with officers belonging to the Executive Cadre and other supporting cadres is equally misconceived. The submission, though attractive at first blush, overlooks the fundamental distinction between equality amongst similarly situated persons and comparison between officers belonging to distinct service cadres governed by different eligibility norms. The record clearly indicates that separate eligibility conditions were prescribed for different cadres having regard to their independent service structures, promotional avenues and functional requirements.



The mere circumstance that officers belonging to another cadre became eligible on the basis of different criteria cannot furnish a valid basis for holding that the eligibility conditions applicable to the Stenographer Cadre are arbitrary or discriminatory.

28. The submission that certain officers were granted the Functional Rank before grant of the corresponding MACP benefit also cannot assist the Petitioners. Those instances pertain to officers governed by different factual circumstances and do not dilute the applicability of the eligibility criteria prescribed for the Petitioners' cadre.

29. This Court is, therefore, of the considered view that the Tribunal committed no error in holding that the Petitioners, admittedly not satisfying the eligibility conditions applicable to the Stenographer Cadre as on the prescribed cut-off date, could not claim assignment of the Functional Rank of ACP as a matter of right. Once the Petitioners were found ineligible under the governing criteria, no right to claim assignment of the Functional Rank could arise. Accordingly, Issue No. I is answered against the Petitioners.

Re: Issue II

30. The next question which arises for consideration is whether the recommendation made by the Screening Committee dated 15.07.2022, by itself, created any enforceable right in favour of the Petitioners.

31. This Court is unable to hold that such recommendation, by itself, created any enforceable right. The minutes of the meeting of the



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Screening Committee dated 15.07.2022 merely record that the names of the Petitioners were recommended for assignment of the Functional Rank of ACP w.e.f. 15.08.2022. Significantly, the recommendation itself was not unconditional. It was expressly made subject to vigilance clearance. More importantly, the consequential order dated 16.07.2022 issued by the Delhi Police itself specifically records that although the Petitioners were recommended for assignment of the Functional Rank of ACP, a separate formal order would be issued in their favour. Thus, even the order dated 16.07.2022 issued by the Respondents makes it abundantly clear that the recommendation was never intended to operate by itself and was incapable of conferring the Functional Rank unless it culminated into a separate order issued by the competent authority.

32. Admittedly, no such order was ever issued. The distinction between a recommendation and a final administrative decision cannot be ignored. A recommendation, howsoever favourable it may be, remains merely a step in the decision-making process unless it is accepted and translated into a final order by the competent authority. It is only upon issuance of such a final order that legal consequences ensue and enforceable rights accrue in favour of the person concerned. Until that stage is reached, the recommendation remains inchoate and is always liable to be reconsidered or rendered ineffective by subsequent developments affecting the decision-making process. Even assuming that the recommendation had received administrative approval at an intermediate stage, no enforceable right could accrue unless the competent authority issued the final order assigning the



Functional Rank.

33. The record further discloses that before any final order could be issued in favour of the Petitioners, the MHA raised objections regarding the authority of the Delhi Police to implement the Functional Rank scheme and sought clarification with regard to the legal basis on which such Functional Ranks had been introduced. The speaking order dated 01.08.2023 records that in view of the objections raised by the Ministry, the proposal relating to further assignment of Functional Ranks did not proceed any further and the process itself was kept in abeyance. Consequently, the recommendation made in favour of the Petitioners never fructified into a final administrative decision. The mere fact that Functional Ranks already assigned to certain officers were not withdrawn does not create a corresponding right in favour of persons who were otherwise ineligible on the relevant cut-off date.

34. In these circumstances, this Court is unable to accept the submission that the Petitioners acquired any vested or enforceable right merely because their names found mention in the recommendation of the Screening Committee. It is a settled principle of service jurisprudence that unless the process culminates in a final order issued by the competent authority, no indefeasible right accrues in favour of an employee merely on account of his recommendation or inclusion in a select list, unless the governing rules specifically provide otherwise.

35. In the present case, no statutory provision, rule or



administrative instruction has been brought to the notice of this Court which confers such finality upon the recommendation of the Screening Committee. On the contrary, the contemporaneous record itself demonstrates that issuance of a separate formal order was contemplated as an essential step before the Functional Rank could actually be assigned.

36. Accordingly, this Court is of the considered opinion that the Tribunal rightly held that the recommendation made by the Screening Committee did not create any enforceable or vested right in favour of the Petitioners. In view of the finding that the Petitioners themselves were ineligible and that no final order assigning the Functional Rank was ever issued, this Court does not consider it necessary to examine the larger question regarding the extent of the Commissioner's statutory authority *vis-à-vis* the MHA to assign the Functional Rank of ACP. Issue No. II is accordingly answered against the Petitioners.

Re: Issue III

37. The remaining question is whether the Petitioners are entitled to invoke the doctrine of parity. It, therefore, becomes necessary to examine whether the Petitioners can successfully invoke the doctrine of equality to claim parity with the officers who were assigned the Functional Rank of ACP.

38. At the outset, it deserves to be noticed that the guarantee of equality enshrined under Articles 14 and 16 of the Constitution embodies the principle that persons who are similarly situated in law must receive similar treatment. Equally well settled, however, is the



converse proposition that the doctrine of equality cannot be invoked by ignoring material distinctions which legitimately differentiate one class of employees from another. The existence of a common employer or similarity in designation is not by itself sufficient to establish discrimination. Before a plea of parity can succeed, it must first be demonstrated that the persons with whom comparison is sought belong to the same class, are governed by the same service conditions and satisfy the same eligibility requirements. It is only upon fulfilment of these foundational requirements that a claim founded upon Articles 14 and 16 can legitimately arise.

39. In the present case, the very basis of the Petitioners' plea of discrimination stands negated by the factual position noticed hereinbefore. The record unequivocally establishes that the Functional Rank scheme itself envisaged different eligibility criteria for different cadres. The Executive Cadre, the Stenographer Cadre and other supporting cadres constituted independent service streams having distinct organisational structures, promotional avenues and functional requirements. The competent authority, therefore, prescribed separate eligibility conditions for each cadre while implementing the Functional Rank scheme. Consequently, officers belonging to different cadres cannot automatically be treated as similarly situated merely because they were assigned the same Functional Rank. Comparison across cadres, in the absence of identical governing criteria, would be legally impermissible.

40. Even insofar as the Stenographer Cadre is concerned, the Petitioners cannot derive any advantage from the fact that certain



officers junior to them may have been assigned the Functional Rank of ACP. Seniority, by itself, does not eclipse the requirement of satisfying the prescribed eligibility conditions. Where eligibility is governed by objective criteria, the mere fact that an officer is senior in service does not entitle him to claim a benefit for which he was otherwise ineligible on the relevant date. Once the Petitioners admittedly did not satisfy the eligibility conditions applicable to their own cadre as on the prescribed cut-off date, the assignment of Functional Rank to any other officer who fulfilled the applicable criteria cannot furnish a valid foundation for invoking the principle of equality.

41. Reliance placed by learned senior counsel for the Petitioners upon the decision of this Court in ***Sanjay Bhardwaj*** (supra) is misplaced. The controversy in the said case arose in a materially different factual context. Unlike the present case, the Court therein was not concerned with an employee who admittedly failed to satisfy the prescribed eligibility conditions governing the relevant cadre. It is well settled that a judgment is an authority only for what it actually decides. Since the Petitioners herein were admittedly ineligible on the prescribed cut-off date, the observations in ***Sanjay Bhardwaj*** (supra) cannot be construed as dispensing with the foundational requirement of eligibility before a claim founded upon parity can be entertained. The said decision, therefore, does not advance the Petitioners' case.

42. Equally unavailing is the reliance placed upon the decisions of the Supreme Court in ***Yashbir Singh*** (supra) and ***Arvind Kumar Srivastava*** (supra). The principles enunciated therein, namely, that



similarly situated employees should ordinarily receive similar treatment and that seniority ordinarily follows the applicable service rules, are too well settled to admit of any dispute. However, those principles can have application only where the employees concerned are similarly situated in law. As already held hereinabove, the Petitioners did not satisfy the eligibility conditions governing their own cadre on the relevant date and, therefore, cannot claim to be similarly situated either with officers belonging to different cadres or even with those members of the Stenographer Cadre who fulfilled the prescribed criteria. The doctrine of equality does not envisage equal treatment amongst unequals nor can Article 14 be invoked for perpetuating an illegality or seeking extension of a benefit *dehors* the governing eligibility conditions merely because such benefit may have been extended in another case.

43. The remaining submissions advanced on behalf of the Petitioners also do not advance their case any further. None of them displace the two findings already recorded by this Court, namely, that the Petitioners did not satisfy the prescribed eligibility criteria as on the cut-off date and that the recommendation made by the Screening Committee never culminated into a final order conferring any enforceable right upon them. Once these findings stand concluded against the Petitioners, the remaining submissions do not warrant independent consideration or interference in exercise of the writ jurisdiction under Article 226 of the Constitution.

44. For all the aforesaid reasons, this Court is of the considered opinion that the Petitioners have failed to establish either any legal



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right to claim assignment of the Functional Rank of ACP or any infirmity in the reasoning adopted by the Tribunal while dismissing the Original Application. The plea founded upon parity is misconceived since the Petitioners were admittedly ineligible under the applicable criteria, while the recommendation of the Screening Committee, having never matured into a final administrative decision, did not confer any vested or enforceable right in their favour. Issue No. III is accordingly answered against the Petitioners.

CONCLUSION

45. For the reasons recorded hereinabove, this Court finds no illegality or perversity in the Impugned Order.

46. The speaking order dated 01.08.2023 rejecting the Petitioners' claim also does not suffer from any infirmity requiring interference by this Court.

47. Consequently, the present Writ Petition, being devoid of merit, is dismissed. Pending applications, if any, shall also stand disposed of.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

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