

**Central Administrative Tribunal
Madras Bench**

OA/310/01569/2015

Dated the 3rd day of March Two Thousand Twenty

P R E S E N T

Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)

Fathima Shaheen F,
D/o Fakrudeen S
No.15, 1st Floor, Shaji Street,
Puducherry 605 001. ..Applicant
By Advocate **M/s.Y.Kavitha**

Vs.

1. Chief Secretary, rep. by
Union of India,
Government of Puducherry,
Puducherry.
2. The Secretary to Govt.,
Department of Personnel & Administrative Reforms,
(Personnel Wing), Government of Puducherry,
Puducherry.
3. Under Secretary(DP&AR),
Chief Secretariat,
Department of Personnel & Administrative Reforms,
(Personnel Wing), Government of Puducherry,
Puducherry.
4. Mohamed Zarook.F
S/o Farook, 34-B, Middle Street,
Sulthan Pet, Puducherry.
5. Mohamed Tharick.S,
S/o Siddick, 4, Alagu Nagar,
Surakkudy Road, Thirunallar,
Karaikal. ..Respondents

By Advocate **Mr.R.Syed Mustafa**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The above OA is filed seeking the following relief(s):-

“to direct the respondents to appoint the applicant to the post of Upper Division Clerk pursuant to Notification dated 11.8.2015, with all consequential benefits including arrears of pay and allowances flowing therefrom, by quashing the provisional select list No.34012/4/2015/DP&AR(Exam) dated 28.10.2015 for the post of Upper Division Clerk, as far as the provisional selection of the 4th and 5th respondents are concerned, if deemed necessary;

to award costs and pass such further and other orders as may be deemed and proper and thus render justice.”

2. The applicant's case is that she belongs to 'Lubbai Muslim' Community. The said Community is given the category “Backward Class Muslim (BCM). She had given an application for the post of Upper Division Clerk (UDC) as per Notification published on 11.8.15 (Annexure A5). 10 posts are set apart for BCM Category. The application was given online as per instructions in the Notification. While application was filled, she showed that she belongs to OBC Muslim (Lubbai) as per Community Certificate which was issued to her on 07.2.2008. But she immediately approached the Revenue Authority for correcting her certificate as BCM. But they stated that they will issue certificate only in case of selection. She immediately gave a representation on 19.8.15 (Annexure A8) to the respondents to consider her as BCM candidate.

3. Respondents issued her Hall Ticket and she wrote the examination. She got 35

marks. But she was not selected in the OBC Category. She was also issued a BCM Certificate on 29.10.15. The third and fourth respondents are those who were selected provisionally in the selection.

4. According to the applicant, the decision not to consider her in the BCM Category is arbitrary and unreasonable. It is against the Government Order No.MS 8/2010 dt. 28.8.10. The applicant ought to have been considered under BCM Category. It was only a bonafide error committed by the applicant while filling up the application.

5. The Official respondents filed a detailed reply. According to them, the applicant had applied under the OBC Category and the applicant got only 35 marks which was below the cut off marks. The applicant had submitted a representation on 30.10.15 (Annexure A12) to include her name in the select list of UDC under BCM Category, which is not possible. The certificates have to be produced only after selection. Arrangements were made for helping candidates by providing help desks and candidates were permitted to correct mistakes 3 times before finalising the list. The applicant could have very well applied as BCM as she knows that she is a Backward Class Muslim. This OA is filed by the applicant when she found that she could not get selected under OBC Category where there exists 55 vacancies. Hence, there is no merit in the case.

6. We have perused the pleadings and heard the submissions. The counsel for the applicant cited the case of *Dinesh Kumar v. State of Rajasthan & Others dt. 27.8.2018* wherein the Hon'ble High Court of Rajasthan has held that mistakes, which

if corrected, would not affect anybody, can be corrected. But in this case, the applicant had given application under the OBC Category and participated in the examination and seeing that she failed to come up under OBC Quota, she wants herself to be considered under BCM Quota where there is possibility to get appointed. The act of the applicant cannot be considered as a mistake. The respondents had given 3 opportunities to rectify the mistakes in her application before finally submitting her application. The quota for Backward Class Muslims was provided from 2010 onwards and the Notification clearly shows the quota available for BCM candidates. There is no material to show that the applicant had approached the Official respondents immediately to correct her alleged mistake. The fourth and fifth respondents who came up in BCM Category will be affected if the applicant's request is considered. So, the decision relied on by the applicant cannot be applied to the facts of this case. So, it is clear that the applicant has approached the Tribunal as an afterthought. We find no arbitrariness or illegality in the non-selection of the applicant in this case. There is no merit in the OA and it is liable to be dismissed.

7. Accordingly, OA is dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

03.03.2020

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