



Central Administrative Tribunal
Principal Bench

OA No. 2632/2012
MA No. 92/2020

New Delhi, this the 27th day of January, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A. K. Bishnoi, Member (A)

Pushpendra Kumar,
Recruit SI(Ex.) Delhi Police-2007
Aged about 37 years,
S/o late Sh. Ishwar Singh,
R/o 23-N, Police Colony,
Model Town-II, Delhi

- Applicant

(By Advocate: Mr. Anil Singal)

Versus

1. Govt. of NCT of Delhi,
Through Commissioner of Police,
Police Head Quarters,
IP Estate, New Delhi

2. Deputy Commissioner of Police,
Recruitment, New Police Lines,
Kingsway Camp, Delhi

- Respondents

(By Advocate: Ms. Asiya for Ms. Rashmi Chopra)

: O R D E R (ORAL) :

Justice L. Narasimha Reddy:

The applicant joined the Delhi Police as a Constable in the year 1996. For appointment to the post of Sub Inspector (SI), there are three channels: (i) 50% through promotion on the basis of seniority; 40% through direct



recruitment; and (iii) 10% through direct recruitment but confined to the departmental candidates. Examination for this purpose was conducted in the year 2010. The applicant sought appointment against 10% category, and claimed the OBC status. It is stated that the applicant secured 135 marks in the written test. The OBC certificate issued to him was cancelled by the Sub Divisional Registrar, Model Town, Delhi through order dated 27.06.2011. Taking the same into account, the respondents issued a show cause notice dated 30.09.2011 requiring the applicant to explain as to why his candidature to the post of SI (Exe.) be not cancelled. The applicant submitted the explanation, and not satisfied with that, the concerned authority passed an order dated 05.01.2012, cancelling the candidature of the applicant. The same is challenged in the OA.

2. The applicant contends that the very cancellation of his OBC certificate is impermissible in law and he availed the remedy before the Hon'ble High Court. It is also stated that even if he was not conferred with the benefits of reservation as an OBC, he was entitled to be considered as a General Category candidate, particularly, when the cut-off marks for General Category candidate was only 123. He



accordingly sought the reliefs in the form of setting aside the show cause notice and the order of cancellation and for direction to consider his case for appointment to the post of SI on the basis of the marks secured by him in the written test.

3. The respondents filed a counter affidavit, opposing the OA. It is stated that the applicant has misrepresented the facts and falsely claimed the status of OBC. It is stated that the authority, who issued the OBC certificate to the applicant, has categorically observed that the applicant misrepresented the facts and obtained the certificate by playing fraud. It is also stated that once the application of the applicant was in the capacity of an OBC category, he cannot be considered as a General candidate, particularly when the cancellation was on the ground of fraud.

4. We heard Shri Anil Singal, learned counsel for the applicant and Ms. Asiya proxy for Ms. Rashmi Chopra, learned counsel for the respondents.

5. The OA was adjourned *sine die*, awaiting the outcome of the WP(C) No. 8141/2011 filed by the applicant, challenging the order of cancellation of caste certificate. It is stated that the applicant has since withdrawn the Writ



Petition. He joined the service of the Delhi Police as a General category candidate. It was only in the year 2010 that he applied for, and was issued the OBC certificate. That was on the basis that he was a resident of Delhi and he fulfilled the conditions required therefor. However, the Sub Divisional Magistrate passed an order dated 27.06.2011, cancelling the caste certificate of the applicant.

It reads as under:-

“1. Whereas, vide No.DCNW/MT/OBC/2001/0017/351 dated 12 July 2001, Other Backward Class certificate (OBC) was issued to Sh. Pushpender Kumar S/o late Sh. Ishwar Singh R/o Q.No.H-331, New Police Lines Kingsway Camp, New Delhi-110009 for Jat community, which is recognized as backward class under Government of NCT of Delhi vide Notification No.F.28(93)/91-92/SC/ST/P&S/4384 dated 20.01.1995 published in the Gazette of Delhi Extraordinary Part-IV dated 20.01.1995.

2. Whereas, as per copy of attestation form, submitted by Sh. Pushpender Kumar to Recruitment Cell revealed that during the period 25.03.1991 to 25.3.1996, temporary and permanent address of the official was, Delhi Saharanpur Road, Subhash Nagar, Baraut (Meerut), UP and however, he procured OBC certificate by claiming resident of Delhi prior to 1993, which is a basic condition for issuance of OBC certificate.

3. Whereas, the applicant was served, Show Cause Notice vide Nos.F2(1)/SDM/MT/OBCVeri./2008/885-88 dated 30.4.2011 and F.2(1)/SDM/MT/OBC Veri./2008/1134-37 dated 20.5.2011 for cancellation of his OBC certificate. The reply dated 23.5.2011 has been filed by Sh. Pushpender Kumar but he has failed to furnish the explanation with regard to misrepresenting of the residential address from 25.3.1991 to 25.3.1996 in Delhi, while procuring the OBC certificate. Under present circumstances and in



view of the aforesaid facts, I am left with no other alternative but to cancel the OBC certificate issued vide No.DCNW/MT/OBC/2001/0017/351 dated 12 July 2001 with immediate effect.

5. This order issues with the prior approval of competent authority, Delhi.”

6. Though the applicant filed the Writ Petition, challenging the order of cancellation; it was withdraw. The result is that the cancellation of the OBC certificate of the applicant has assumed finality.

7. The respondents issued a show cause notice, requiring the applicant to explain as to why his candidature be not cancelled. On consideration of his explanation, the respondents passed an order dated 05.01.2012. The operative portion of the said order reads as under:-

“...His written reply in detail has been considered and found not tenable as he has misrepresented the facts of residential address from 23.5.91 to 23.5.96 and managed to procure OBC certificate from SDM/Model Town fraudulently for getting the benefits of OBC candidate for the recruitment of SI(Exe.) Male in Delhi Police during the year 2007. Though he was selected against Departmental General Standard and had not taken the benefit of OBC Departmental Candidate but he has filled the Application Form in Departmental OBC Category to take the benefit of OBC. Had he been selected in Departmental OBC Category certainly he would have got the appointment on the basis of certificate which he had obtained by misrepresentation of facts. As such the candidature of candidate Pushpendra Kumar, Roll No.412104 for

the post of SI (Exe.) Male in Delhi Police-2007 is hereby cancelled with immediate effect.”



8. It is true that the applicant has obtained 135 marks in the written test and the last selected candidate in the unreserved category was the one who secured 123 marks. In other words, had the applicant applied as an unreserved candidate, he would have been selected and appointed. Once he is found to have committed acts of fraud in obtaining a caste certificate, the consequences must flow.

9. Reliance is placed upon the judgment of the Hon'ble Supreme Court in the case of **MCD Vs. Veena & Ors.** (2001)6 SCC 571. That was a case in which the caste certificate relied upon by the candidate was found to be not acceptable, whereas in the case in hand, the caste certificate of the applicant was cancelled on the ground of fraud. It hardly needs any mention that the candidate, who resorted to objectionable means to claim the benefits of OBC, cannot fall back upon the General category. It is fairly well settled that fraud, if established, would unravel everything. At any rate, the selection, who took place about a decade ago, cannot be opened at this stage.

10. We do not find any merit in the OA. It is accordingly dismissed.

Pending MA, if any, shall also stand disposed of.

There shall be no order as to costs.

(A. K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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