

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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O.A. No.1594/99

New Delhi this the 26th day of November, 1999

HON'BLE MR.JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN
HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

Bhuneshwar
S/o Shri Raghubansh Prasad,
R/o Qr. No. 194/II, B.T.P.P. Colony,
Gate No. 3,
Badarpur,
New Delhi-110 044.

Applicant

(By Advocate: Shri V.K. Mehta)

Versus

1. Union of India,
Through Secretary,
Department of Personnel & Training,
Ministry of Personnel, Public
Grievances & Pensions,
North Block,
New Delhi-110 001.

2. Staff Selection Commission,
Through its Secretary,
Block No. 12,
Kendriya Karyalay Parisar,
Lodi Road,
New Delhi-110 003.

Respondents

(By Advocatae: Shri V.S.R. Krishna)

O R D E R (Oral)

By Smt. Shanta Shastri, Member

Heard the counsel for the applicant and the respondents.

2. A competitive examination was held on 22.9.1996 by the Staff Selection Commission, New Delhi, for recruitment to the post of Lower Division Clerks. The applicant who applied under the category of OBC ~~through~~ appeared for the written and the typing test. He was required to submit a caste certificate from the competent authority in the

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prescribed proforma. He could not be considered for appointment otherwise. Though successful, the respondents did not consider the applicant for appointment to the post of LDC on the ground that OBC certificate in the requisite proforma was not submitted by him in time i.e. at the time of the typing examination, as the instructions were very clear in this matter. The applicant could submit the certificate much later than the allowed time i.e. 17.12.1997.

3. The applicant has passed even by general standard and has been declared successful in the open merit list. The applicant submits that since he has come in the general merit list he should have been considered under that category and should have been given the appointment if he were not to be considered on the ground of being an OBC candidate, on account of delay in submission of the OBC certificate.

4. The learned counsel for the respondents contends that since the applicant had applied specifically under the OBC category, he was bound to produce the requisite certificate within the time limit and therefore failure on his part to produce the certificate in time debarred him for consideration on the ground of being an OBC candidate. He is also not entitled for appointment in the general category on this very ground.

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✓ However, the respondents concede that the applicant has been successful and has come in the open merit list.

5. In the counter, the respondents have reiterated that ^{and I} applicant even though the applicant qualified ^{he} in the examination by the general standards ^{he ought} ~~at~~ to have submitted the OBC certificate in the prescribed proforma by the stipulated date i.e. 17.12.1997 as he has claimed the OBC status in his original application form. It is true that the applicant failed to comply with the conditions and requirements of submitting the OBC certificate in the prescribed proforma by the stipulated date. However, now that it has been admitted that he has been successful in the open merit list, the question is whether the applicant could be considered for appointment on the basis of his merit in the open merit list.

12 6. In this connection, the learned counsel for the applicants cites the famous judgement in the case of Indira Sahney Vs. Union of India 1992 (Suppl. 3) SCC 210 P.370 and is relying upon the OM dated 13.8.1990 of the Ministry of Personnel, Public Grievances and Pension, Govt. of India, whereby orders have been issued that candidates belonging to Socially and Educationally Backward Classes recruited on the basis of merit in an open competition on the same standard prescribed for the general candidates shall not be adjusted against the reserved quota of 27%. The applicant being an OBC

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candidate is covered under this Order and as such he can be considered against the general quota. The Scheme of the Examination enclosed along with the counter also has clearly mentioned that candidates belonging to SC/ST and OBC who have been recommended by the Staff Selection Commission without resorting to relaxed standard shall not be adjusted against the vacancy reserved for the SC/ST and OBC. This means that the applicant's consideration under the general category will not affect the quota for the reserved categories.


7. We find that the applicant has missed the appointment only because he could not produce the certificate in the prescribed proforma within the stipulated time though he did produce the same after a delay of 3 weeks. Even assuming that respondents would not like to consider him in the OBC category on this ground because the learned counsel for the respondents also says that there were similarly placed persons whose cases were already rejected, the applicant can certainly be considered for appointment under the general category. The applicant deserves to be considered under the general category as he is very much in the merit list.

8. In the facts and circumstances of the case, the OA succeeds and the respondents are directed to consider the case of the applicant under

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the general category, on general merit basis as shown
in the result of the Examination of 1996 for the
post of Lower Division Clerk. No costs.



(MRS. SHANTA SHASTRY)

MEMBER (A)



(V. RAJAGOPALA REDDY)

VICE CHAIRMAN (J)