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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A. No.2703 OF 2004

This the 1st day of September, 2005

**HON'BLE JUSTICE SHRI B. PANIGRAHI, CHAIRMAN
HON'BLE SHRI M.P. SINGH, VICE CHAIRMAN (A)**

Gianender Singh,
HC (Min.) in Delhi Police,
PIS No.27940017
(Roll No.1217437)
R/o A-2, New Police Line,
Gate No.1, GTB Nagar, Delhi-9.Applicant.
(By Advocate : Shri Anil Singal)

VERSUS

1. Union of India
Through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Lt. Governor of Delhi,
Raj Niwas, Delhi.
3. Govt. of NCT of Delhi,
Through its Chief Secretary,
Delhi Secretariat,
IP Estate, New Delhi.
4. Commissioner of Police,
Police Head Quarter,
IP Estate, New Delhi.
5. Staff Selection Commission,
Through its Chairman,
C.G.O. Complex, Lodhi Road,
New Delhi-110003.Respondents.

(By Advocate : Shri S. M. Arif)

ORDER

SHRI M.P. SINGH, VICE CHAIRMAN (A):

By filing the present OA, the applicant is seeking the

 following reliefs:-

"1. To direct the respondents to treat the applicant as OBC for the recruitment to the post of SI (Ex.) Delhi Police through combined Graduate Level Examination-2004 declaring non-consideration of applicant as OBC as illegal, ultra-virus, null and void, without jurisdiction and authority and automatically ineffective from its inception and non-existence in the eyes of law being in violative of Articles 14 & 16 of the Constitution of India.

2. To award costs in favor of the applicants and pass any order which this Hon'ble Tribunal may deem just & equitable in the facts & circumstances of the case."

2. Brief facts of the case are that the applicant belongs to 'Jat' community in Delhi, which falls in OBC category as per Delhi List of OBCs declared vide order dated 31.5.2000. The applicant applied for the post of Sub Inspector (Executive) in Delhi Police in response to the advertisement appearing in the Employment News issued by respondent no.5. The applicant applied as a General Category candidate since at the time of filing of the form, respondent no.5 was not treating 'JAT' community of Delhi for the purpose of benefit of OBC reservation, as the same is not included in the Central List. However, respondent no.1, i.e., Ministry of Home Affairs, sent a letter dated 18.8.2004 addressed to respondent no.5 on the basis of what was decided by the respondents no.2 to 4 on 25.11.2002 to treat the Delhi List of OBC also for recruitment to Delhi Police. The applicant submitted his representation on 2.9.2004 to treat him as OBC departmental candidate for the post of Sub Inspector (Executive) by extending the benefit of



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OBC reservation. Despite the pendency of applicant's aforesaid representation, the respondents have announced result on 11.10.2004 declaring the applicant as qualified as 'General' category candidate in first part of the Result of Combined Graduate Level (Main) Examination, 2004. Though Tribunal vide its judgement dated 22.9.2004 in OA No.161/2004 with OA No.1414/2004 held that applicants therein 'JAT' should be treated as OBC candidates for recruitment to the post of Sub-Inspector (Executive). After the aforesaid judgement of the Tribunal, applicant has submitted another representation on 12.10.2004. However, he was informed by respondent no.5 that they will consider only the applicants in OA No.161/2004 and 1414/2004 as 'OBC' category candidates and the benefit of OBC will not be accorded to the applicant automatically. Hence, he has filed this OA seeking the aforesaid reliefs.

3. Respondents in their counter reply have stated that applicant had appeared in the Combined Graduate Level (Main) Examination, 2004 as a candidate of unreserved category. The applicant cannot seek the benefit of the order of this Tribunal in OA No.161/2004 with OA No.1414/2004 at this stage, as he has never applied for the post as 'JAT' community candidate of Delhi or in other words, as OBC candidate. The Tribunal vide its judgement dated 22.9.2004 in OA No.161/2004

and 1414/2004 has directed as follows:-



"14. Resultantly, we allow the present applications and direct :

- a) the applicants should be treated as OBC candidates for recruitment to the post of Sub-Inspector (Executive); and
- b) the claim of the applicants should be considered on its merits and thereafter necessary benefits should be accorded to them, if any."

Hence, the aforesaid judgement is restricted to only applicants of those cases subject to fulfilling the merits by the applicants therein. According to the respondents, applicant in the present case has never applied as OBC category candidate, therefore, the question of considering the applicant as OBC candidate either earlier or now does not arise at all. It is further stated by the respondents that it is the applicant who in his own wisdom has applied as 'General' category candidate. Therefore, the applicant has rightly been declared 'General' category candidate as he has applied in that category only. Respondents have also submitted that judgement dated 22.9.2004 passed by this Tribunal in OA No.161/2004 and 1414/2004 is not applicable in the present case. Therefore, the applicant is not entitled to have any relief whatsoever from this Tribunal. OA deserves to be dismissed with costs.

4. Heard the learned counsel for the parties. During the course of the submissions, learned counsel for the applicant has submitted that the present case is fully covered by the judgement of this Tribunal in OA No.161/2004 with OA



NO.1414/2004 passed on 22.9.2004. On the other hand learned counsel for respondents submitted that the case of the applicant is not covered by the aforesaid decision of this Tribunal as in that case the applicants have applied as OBC category candidates, but in the present case, the applicant has applied as 'General' category candidate.

5. We have perused the material available on record. We have gone through the judgment of this Tribunal in OA No.161/2004 and OA No.1414/2004 and we find that the facts of the present case are not similar. The facts are different inasmuch as in that case, the applicants have applied as 'OBC' category candidates but in the present case, the applicant has applied and appeared in the test as 'General' category candidate. It is well settled proposition of law that once a person applies as a 'General' category candidates, he has to be treated as 'General' category candidates for all purposes. It is further observed that the applicant after having participated in the examination as 'General' category candidate and having failed, he cannot be allowed to rack up the plea that he belongs to 'OBC' category and he should be given the benefits of the aforesaid judgment of this Tribunal.

6. The similar issue was involved, as in the present case, in the OA No.2439/2004 in the case of **Gyanender Singh Vs.**



Union of India and others, decided on 11.10.2004. This Tribunal dismissed the Original Application.

7. The contention of the applicant in his rejoinder that the fact of OA No.161/2004 were not mentioned in the judgment dated 22.9.2004, as OA NO.1414/2004 was also considered by this Tribunal by the common order and the facts of OA No.1414/2004 were only mentioned for the sake of convenience as mentioned in the opening paragraph of the judgment dated 22.9.2005. Applicant has also taken a ground that the applicants in OA No.161/2004 have also applied in pursuance of advertisement of 2003 and in the application forms had mentioned them as OBC category is factually incorrect. We have gone through the judgment of this Tribunal in OA No.2439/2004 dated 11.10.2004. The Tribunal in paragraph 23 of the judgement have observed as under:-

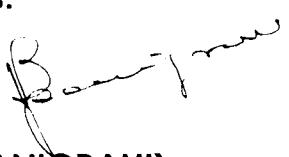
“23. In so far as applicability of OA-161/2004 to the present case is concerned, applicants in OA-161/2004 have applied in pursuance of advertisement of 2003 and in their application had mentioned themselves as OBC candidates. As they had not been considered as OBC because Jat community of Delhi has not been brought in the central list their consideration despite their clearing preliminary and main examinations and after interview was not processed further. The relaxed standards of reservation were not provided to them. However, in the merit list issued by the respondents in so far as OBC candidates are concerned, the selections have been made subject to the final outcome of OA-161/2004, as directed by the Tribunal. Accordingly, their consideration was ordered in the OA, deeming them as OBC candidates on merits.”



In view of the above observations of the Tribunal in OA No.2439/2004, the contention of the applicant that the facts of OA 161/2004 and the present OA are similar is not correct and the same is accordingly rejected. We are fortified with the decision of this Tribunal in OA No.2439/2004 (supra).

8. In the result, for the forgoing reasons, the present Original Application being without merit, must fail and the same is accordingly dismissed without any order as to costs.


(M.P. SINGH)
VICE CHAIRMAN (A)


(B. PANIGRAHI)
CHAIRMAN

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