

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 291/421/2013

Order reserved on 24.09.2021

DATE OF ORDER: 06.10.2021

CORAM

**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER**

Sunil Prajapat, age about 24 years, S/o Shri Lalaram, R/o Bad Bagichi, Guda Road, Bandikui, Dist. Dausa, Rajasthan.

....Applicant

Shri N.K. Songara, counsel for applicant.

VERSUS

Union of India through Secretary, Railway Recruitment Board, Ajmer.

.... Respondent

Shri Anupam Agarwal, counsel for respondent.

ORDER

Per: Hina P. Shah, Judicial Member

The present Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for the following reliefs:-

"Impugned order dt. 25-4-2013 Annexure A-1 be quashed & set aside. Applicant be treated as O.B.C. category candidate, Revise merit list be prepared and applicant be given appointment for the post of Asst. Loco Pilot with consequential benefits.

Applicant be held entitled for appointment and all other consequential benefits."

2. The brief facts of the case, as stated by the applicant, are that Railway Recruitment Board, (RRB), Ajmer, invited applications for the post of Assistant Loco Pilot by publishing advertisement in the newspaper. The applicant being eligible for the said post had applied under O.B.C. category as he possessed the requisite qualifications and was in receipt of the OBC certificate. He was allotted Roll No. 12111014026842. Accordingly, he appeared in the written examination dated 15.07.2012 and in the said examination, he was declared successful vide result dated 14.09.2012. Thereafter, the applicant appeared in Abhiruchi Examination dated 21.10.2012 and as per the result declared by RRB, Ajmer on 26.12.2012, he was not selected. The applicant has secured 50.8474% marks in written and 19.2 in Abhiruchi Examination, which totalled to 54.79% marks out of 100 marks. The cut off marks for General candidate

was 56.96% marks and for OBC candidate, the cut off marks was 49%. The applicant was shocked to know that his result was declared under General candidate, whereas he was entitled to be considered under OBC category. Accordingly, the applicant submitted representation for declaration of correct result treating him under O.B.C. category but no action was taken by the respondents. Thereafter, the applicant approached this Tribunal by way of filing O.A. No. 218/2013 and vide its order dated 14.03.2013, the respondents were directed to consider and decide the representation of the applicant. The respondents vide their order dated 25.04.2013, (Annexure A/1), rejected the representation of the applicant dated 11.02.2013 stating that the applicant had not filed self-declaration with the application form for the post of Assistant Loco Pilot under OBC category. Thus, being aggrieved by the rejection order dated 25.04.2013 (Annexure A/1) passed by the respondents, the applicant has approached this Tribunal for a direction that he be treated as O.B.C. category candidate and revise merit list be prepared and he be given appointment on the post of Assistant Loco Pilot with consequential benefits.

3. (a) The respondents, after issue of notices, have filed their reply raising preliminary objection and stated that bare perusal of the O.A. would reveal that applicant has impleaded Union of India through Secretary, Railway Recruitment Board, Ajmer. In fact, Union of India cannot be represented through the Secretary, Railway Recruitment Board as Railway Recruitment Board is an agency of recruitment which only conducts selection and recommends candidates for appointment while appointment is to be given by the zonal railway. Therefore, the present O.A. suffers from non-joinder of parties and deserves to be dismissed.

(b) On merits, the respondents state that the applicant has failed to enclose the requisite certificate and self-declaration in the prescribed format as per Notification No. 01/2011. In absence of the same, the respondents had no option except to treat the applicant under general category or to reject his application. Therefore, treating the applicant under general category is justified. It is further stated that the applicant failed to enclose his self-declaration about non-creamy layer status along with the certificate Annexure A/6 in the format as given in

Central Employment Notice (CEN) No. 01/2011. As such, it is clear that the candidature of the applicant cannot be considered / treated under OBC category. The respondents state that the candidates who wish to be considered against the vacancies reserved and/or seek age relaxation must submit certificate from the competent authority and self-declaration of non-creamy layer status in case of OBCs in prescribed format along with application form. It is clear that otherwise their claim for reserved status will not be entertained and the candidates will be considered under General (UR) category only. It is further clear that the applicant cannot be considered against the OBC category and he will be considered only under General category. The respondents further state that directions of this Tribunal passed in O.A. No. 218/2013 vide its order dated 14.03.2013 have strictly been followed and the impugned order in question in the present O.A. is a reasoned and speaking order, which is just and proper and, therefore, the present O.A. deserves to be dismissed as the claim for appointment of the applicant under OBC category is without any substance.

4. The applicant has filed a rejoinder stating that he had enclosed the requisite certificate including caste certificate and self-declaration of non-creamy layer status in the prescribed format as given in Employment Notice No. 01/2011, therefore, he cannot be considered as general community candidate. As the candidature of the applicant was wrongly considered under general category for no fault of his, the respondents may be directed to consider the candidature of the applicant under OBC category as he has enclosed Annexure-5, which is self-declaration of non-creamy layer status in the prescribed format as in the notification and, therefore, the respondents are required to consider the candidature of the applicant under OBC category. Thus, the present O.A. deserves to be allowed.

5. Heard learned counsels for the parties and examined the material available on record.

6. The applicant as well as the respondents have reiterated their submissions made earlier.

7. It is seen that that the applicant has applied for the post of Assistant Loco Pilot as per the Central Employment Notice No. 01/2011. Since he has fulfilled the required qualifications, he had applied for the said post and he was called for written examination wherein he was found successful. Thereafter, he was called for Abhiruchi Examination dated 21.10.2012 and result of the same was declared by RRB Ajmer on 26.12.2012 wherein he was not selected. It is the claim of the applicant that he has secured 50.8474% marks in written examination and 19.2 in Abhiruchi Examination and, thus, he had secured 54.79% marks out of 100 Marks and cut off marks under OBC category was 49% marks whereas cut off marks for General category candidate was 56.96% marks.

8. As seen, it was clearly mentioned in para 1.14 of Central Employment Notice No. 01/2011 that while all candidates irrespective of community may be considered against UR vacancies, however, against the vacancies earmarked for specific community (SC/ST/OBC), only candidates belonging to that community / group will be considered. For this

purpose, SC/ST/OBC should furnish caste certificate from competent authorities as per the formats given at Annexure-3 (for SC/ST candidates) and Annexure-4 (for OBC candidates). Further, in the case of OBC candidates, the certificate should specifically indicate that the candidate does not belong to the persons/section (creamy layer) mentioned in Col. 3 of the schedule of the Government of India, Department of Personnel and Training OM No. 36012/22/9-Estt. (SCT) dated 08.09.1993 and its subsequent revision through OM No. 36033/3/2004-Estt. (Res) dated 09.03.2004. The OBC candidate should enclose self-declaration of non-creamy layer status in the Performa as given in Annexure-5. It was, therefore, clear that the candidates who wish to be considered against the vacancies reserved and/or are seeking age relaxation were required to submit certificate from the competent authority and were required to give self-declaration of non-creamy layer status in the case of OBCs in the prescribed format along with application form itself. Therefore, it was clear that if the said applications did not show reserve status, the said applications would be considered under General (UR) category only.

9. Also as per the instructions under para 5 and 5.07 of CEN No. 01/2011, it is clear that each individual candidate should enclose enclosures as applicable firmly stitched along with the application in the given order i.e. self-attested photocopy of caste certificate from competent authority in the case of SC/ST/OBC candidates (as given in Annexure-3 and Annexure-4) and self-declaration from OBC candidates regarding non-creamy layer status in the performa as given in Annexure-5.

10. As per instructions in para 6.05 of the CEN No. 01/2011, it is clear that the copies of requisite certificate not enclosed, which includes OBC certificate not in prescribed format or without self-declaration of creamy layer (for consideration of relaxation of OBC). As per instructions given in para 6 Invalid applications with sub-para 6.01 to 6.19, candidates are requested to read all instructions thoroughly before sending their applications to the RRB. Otherwise, their applications are likely to be rejected on one or more of the reasons.

11. It was also made clear in the notification that the candidates applying for the examination should ensure that they fulfill all the eligibility conditions for admission to the examination. Their admission to all stages of the recruitment process will be purely provisional subject to satisfying the prescribed eligibility conditions. It was also mentioned that the process of scrutiny of candidature and application forms of candidates is a continuous process at different stages till the candidate verification at the time of original documents verifications.

12. As observed by us, it is clear that the applicant in response to the CEN No. 01/2011 had submitted his application for the post of Assistant Loco Pilot against the OBC community category enclosing attested copies of various documents bearing Sr. No. 015208. It is not denied that the applicant had submitted caste certificate belonging to Prajapat, which is recognized as OBC issued by Tehsildar, Baswa on 22.03.2010 bearing No. 1831. But the applicant had failed to enclose self-declaration of non-creamy layer status in the prescribed format as given in Annexure-5 of CEN No. 01/2011. The application of the applicant was

registered with control No. 121971. As seen, there were number of applications received by the respondents, which were nearly 42340 and after preliminary scrutiny, about 11691 applications were treated as ineligible / rejected and about 30649 candidates were provisionally allotted roll numbers and call letters were issued to appear in written examination. It is clear that the call letters issued by RRB, Ajmer, no way entitles the applicant / candidate for any appointment in the Railways. Thus, it is clear from the record that the applicant had failed to enclose self-declaration of non-creamy layer status in the prescribed format in Annexure-5 of CEN No. 01/2011 along with application form as required in the instructions contained in para 1.14 to CEN No. 01/2011. Therefore, the candidature of the applicant could not be considered by the respondents against the OBC category. Hence, his case was considered by the respondents under General community category and as the cut off marks for unreserved general category was 56.96% marks and as the applicant had secured only 54.79% marks, no fault could be found in the action of the respondents for not publishing roll number of the applicant in the list of selected

candidates published vide RRB letter dated 26.12.2012. Also in case if the applicant is allowed to be considered for appointment, third party rights will be created and in absence of they being made party respondents, the entire process will be disturbed as in the present case, no interim protection is in favour of the applicant. Therefore, it is clear that the respondents have rightly considered the case of the applicant strictly in accordance with the provisions of law and, thus, Annexure A/1 order dated 25.04.2013 is reasoned and speaking order, which cannot be interfered.

13. In view of the observations made herein-above, it is clear that the impugned order dated 25.04.2013, (Annexure A/1), is just and proper and the same cannot be interfered. Therefore, the present Original Application being devoid of merit deserves to be dismissed. Accordingly, the Original Application is dismissed with no order as to costs.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER