

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

O.A No. 988/2007

, this the 30<sup>th</sup> day of November, 2012.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER  
HON'BLE MR SHASHI PRAKASH, ADMINISTRATIVE MEMBER

Ainuddeen, S/o Shri Abdussatar, R/o 171/C Poora Gharva, Teliarganj,  
Allahabad. Permanent address Newari Bazar (Durgajpur) P.O. Jhangiranj,  
Ambedkar Nagar (UP).

... Applicant

By Advocate : Shri R. Verma

V E R S U S

1. Union of India through Secretary, Ministry of Personnel, Public Grievance & Pensions (DOPT), North Block, New Delhi.
2. The Chairman, Staff Selection Commission, Block No. 12, CGO Complex, Lodhi Road, New Delhi.
3. The Regional Directory, Staff Selection Commission, (Central Region), 8-A, B, Beli Road, Allahabad.
4. The Chairman/Director, Central Board of Direct Taxes, Ministry of Finance, New Delhi.

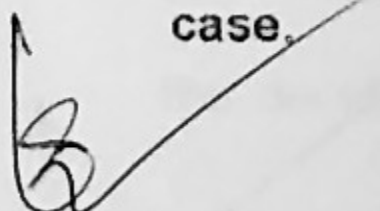
... Respondents

By Advocate : Shri H. Singh

ORDER

**HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER**

Rejection of candidature on account of non furnishing of OBC caste certificate in the format along with the application is the subject matter of the case.





2. Briefly stated, in July 2006, the respondent No 3 had issued a notification for selection to the post of Tax Assistant. Last date for submission of application was 11-08-2006. The notification warned the candidates that if the documents to be attached with the application, which included " Document(s) in support of claim of SC/ST/OBC/Ex S/PH persons" are not submitted along with the application, application will be rejected summarily or at any stage of the recruitment process and no request for revival will be considered. The check list contained that the candidate should ensure that attested photocopies of certificates in support of age date of birth required minimum qualifications, SC/ST/OBC/Ex Servicemen/PH Category as claimed in the application. With the above administered caution duly manifested, the notification had been issued and in response thereof when application has been filed by the applicant, he had annexed an OBC certificate, which was issued by the State Government but which was not in the format specified in the notification. The application, no doubt was entertained and the applicant called for the written test and it was at a later point of time, objection as to the certificate was raised as the same was not in the proper format and the applicant was given 15 days time to produce the OBC certificate in the format prescribed. The applicant obtained the same on 28-04-2007 and made available to the respondents. The applicant was however, treated as an unreserved candidate and since he did not come in the merit prescribed for the unreserved candidate, he was not offered the appointment. It is the case of the applicant that if he were treated as an OBC candidate, then, the cut off merit of OBC category candidate being 161 and he having secured 174 marks, he could have easily been accommodated against the OBC vacancy. This is the dispute.

3. The contention of the applicant is whether it is the format that would be the deciding factor, when the fact that the applicant does belong to OBC is not



questioned.

4. Concession for OBC category is conditional. Apart from fulfillment of the condition that one does belong to OBC Category, it is also to be subject to their not falling under the Creamy Layer category. A detailed communication has been sent by the Nodal Ministry (Dept of Personnel and Trainint) that while the OBC status of a candidate may change only when the community of the concerned candidate is removed from the OBC list, his/her creamy layer status may change any time. In vied of it, it is not possible to determine a fixed validity period for the OBC certificate. Order dated 15-11-1993 of the DOPT specifies the authorities who are competent to issue the OBC certificate and the same authorities which are notified as competent to certify OBCs status should also be authorized to certify the candidate in question does not belong to the persons/section (Creamy Layer) mention in Column 3 of Schedule to the DOPT OM dated 08-09-1993. As such, provision for a specific format or insisting that the certificate should have been obtained after a particular date etc., are all to ensure that the twin conditions are fulfilled.

5. When the notification was issued, specific mention to furnish the requisite certificate in the prescribed format could be seen in the following paragraphs of the notification:-

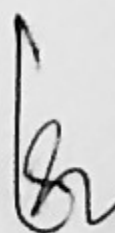
(a) 4(E) PROCESS OF CERTIFICATION AND FORMAT OF CERTIFICATES read with Annexure VII of the notification.

(b) 26. INVALID APPLICATIONS:

The applications having any of the following deficiencies or irregularities will be summarily rejected (the List is only illustrative & not exhaustive):

1) to 10 : x x x

11. Without proper certificates, in respect of SC/ST/OBC/Ex S/PH. Certificate should be obtained from the competent authority in the





**prescribed format.**

(c) Clause 10 of the Prescribed Application form:

10. Are you seeking reservation as SC/ST/OBC/PH/EXs?  
(If yes, attach attested photocopy of certificate(s) in **prescribed proforma**)

6. With the above cautions when the notification has been issued, the applicant did not appear to have cared for producing the OBC certificate in the prescribed format. He has submitted an OBC certificate issued on 20-12-2004 vide Annexure A-VI which does not contain the declaration as to the creamy layer. The prescribed format in which the applicant obtained the certificate much later on 27-04-2007 is in full in all respects including the certificate relating to Creamy layer, vide Annexure A-VIII.

7. The declaration to be given by an OBC candidate, vide the format of application provides that the closing date for receipt of application will be treated as the date of reckoning for OBC status of the candidate and also for assuming that the candidate does not fall in the creamy layer. (Page 57 of the OA refers). Thus, for the purpose of ascertaining that the candidate does not fall in the creamy layer, the certification is absolutely essential.

8. The respondents have taken support of judgments from the High Court as also orders of various Benches of the C.A.T. The same are as under:-

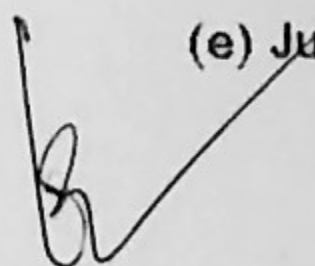
(a) Judgment dated 16-02-2005 in OA No. 22/04 (SCA 1)

(b) Judgment dated 05-10-2004 in OA No. 275/04(SCA 2)

(c) Judgment dated 02-08-2007 in OA No. 773/07(SCA 3)

(d) Judgment dated 02-05-2008 in OA No. 1053/07 (SCA 1) filed on 09-02-2009

(e) Judgment dated 12-05-2008 in OA No. 839/07 (SCA 2) -do-

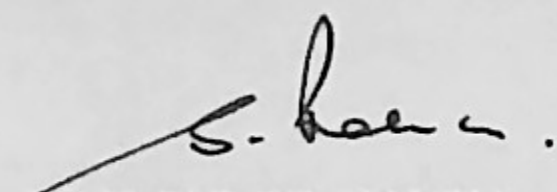



(f) Judgment dated 02-09-2008 in Spl Appeal No. 1090/02 (SCA-3) -do-

9. In all the above, a symphonic sound has been soundly struck emphasizing the need to have the OBC certificate to be in the prescribed format and cancellation of candidature or treating the candidate as UR candidate had not been upset by the Court/Tribunal.

10. In view of the above, the applicant could not make out a case and as such, the OA being devoid of merits, merits only dismissal, which we declare.

11. Under the above circumstances, there shall be no orders as to costs.

  
**SHASHI PRAKASH**  
**ADMINISTRATIVE MEMBER**

  
**Dr K.B.S. RAJAN**  
**JUDICIAL MEMBER**

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