

1. O.A. No. 207/99  
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2. M.A. No. 133/2000  
i n  
O.A. No. 207/99

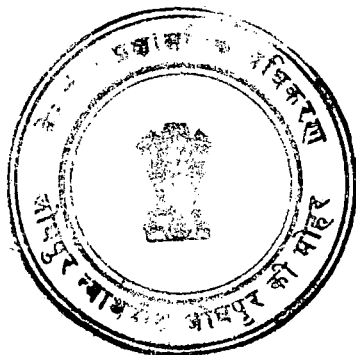
Bajrang Kumar Sani son of Shri Chotu Ram Sani aged 24 years resident of 64-E Block, Srignaganagar, appointment for the post of Clerk, through S.S.C., New Delhi.

... Applicant.

v e r s u s

1. Union of India through the Deputy Secretary, Department of Personnel, Cabinet Secretariate, New Delhi.
2. Regional Director, Northern Region, Staff Selection Commission, Block No.12, C.G.O. Complex, Lodhi Road, New Delhi.
3. The Under Secretary (Northern Region), Staff Selection Commission, Block No. 12, C.G.O. Complex, Lodhi Road, New Delhi.

... Respondents.



Mr. R.S. Saluja, Counsel for the applicant.

Mr. Vinit Mathur, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

The applicant has challenged the order dated 25.05.99 vide Annexure A/1. By this order, the applicant was declared failed in the written part of examination held for the purpose of appointment to the post of LDC by the Staff Selection Commission, New Delhi, in 1997.

2. The applicant contended that in pursuance of the employment news dated 6-12/6/98, he applied for the post of LDC with the Roll No. 1782338

19

and the examination was conducted on 11.10.98 at Bikaner Centre. The applicant indicated in his application form that he belongs to category No.6, i.e., OBC category. The applicant's result in the written part of the examination was communicated to him vide Annexure A/3, stating that the applicant has been declared qualified in the written part of the examination for being called for typing test, which would be held between 15th June to 15th July, 1999, and the exact date and venue would be intimated separately. Thereafter, the Staff Selection Commission has issued the impugned order dated 25.5.99, informing the applicant that the applicant was considered in the written part of the examination in category '6, 3, 4' and accordingly, he was declared successful. But on further verification, it was noticed that the applicant belongs to category 6 only, and accordingly, it was found that he did not qualify in the written examination. It is this order (Annexure A/1), the applicant has challenged in this application, contending that the applicant should not have been failed in the written examination. The applicant contended that he was not called for typing test, and he should have been called for typing test.



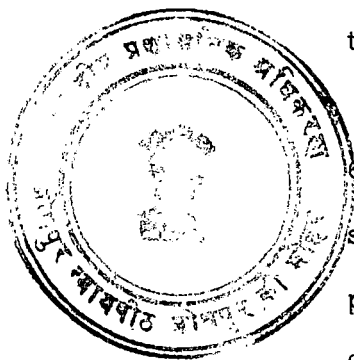
3. The learned counsel appearing for the applicant contended that there is no error or mistake while publishing the result of the applicant in the written part of the examination. Even otherwise, the applicant had indicated in his application that he belongs to category No.6, therefore, the declaration of the result in the written part of the examination as failed, was illegal. When the applicant was declared successful in the written part of the examination vide Annexure A/3, the same could not have been modified by the impugned order, declaring him as failed.

4. By filing counter, the respondents have denied the case of the applicant. In the reply, the respondents have stated that the applicant was erroneously considered due to mechanical problem, as the person

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belonging to '6,3,4' (OBC, Ex-Serviceman & Physically Handicapped), and accordingly, the applicant in the written examination was declared as passed. But on scrutiny, it was found that he belongs to OBC category only, and as such, the applicant did not qualify in the said test. Accordingly, he ~~was~~ not called for the typing test. The error that ~~was~~ occurred due to mechanical problem, was corrected vide impugned order at Annexure A/1. The learned counsel for the respondents contended that the department has the power to correct such typographical or mechanical error, and therefore, the department was right in correcting the alleged mistake. Therefore, the application deserves to be dismissed.

5. In view of the respective contentions of the parties, what we have to see is that whether the impugned order vide Annexure A/1, calls for any interference in the exercise of our jurisdiction under Article 226 of the Constitution.



6. The respondents contended that earlier the applicant was declared successful in the written part of the examination due to mechanical problem, treating him as the one <sup>belonging</sup> to the category '6, 3, 4' (OBC, Ex-Serviceman and Physically Handicapped). But on scrutiny and verification, it was found that the applicant belong to OBC category only, and not the categories of Ex-Serviceman and Physically Handicapped. Therefore, treating the applicant as Ex-Serviceman and Physically Hanidcapped, was found to be incorrect, since he belonged to OBC category only, and in that category, he was declared unsuccessful in the written part of the examination. We think it appropriate to extract the relevant paras Nos. 4.5 & 4.6 of the reply, as under:-

"4.5 & 4.6 .... It is submitted that after declaration of the result of the written part of the Clerks' Grade Examination, 1997, a detailed scrutiny was undertaken by this Commission with respect to his eligibility and other particulars filled in by the candidate in his application form. On careful scrutiny of his application dossier, it was found that Shri Bajrang Kumar Saini had indicated

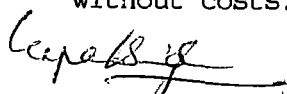
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his category as '6' which denotes 'OBC' but in the result, inadvertently it was shown as '6, 3, 4' which stands for an OBC candidate who must be Ex-Serviceman & Physically Handicapped. Since he actually belongs to only OBC category, his result was reverified from the record and it was noted that he did not qualify as an OBC candidate. In the circumstances of the case, the candidate was accordingly informed by this Regional Office vide its Memorandum dated 25.5.99 that he did not qualify in the written examination for being called for the typewriting/skilled test. The action of the Commission was taken in the right earnest. Since Shri Bajrang Kumar Saini failed to make the grade in the written part of the examination, he was not called for the Typewriting Test."

7. The fact that the respondents have the power to correct the typographical or mechanical error, cannot be disputed, nor it is disputed. But the contention of the applicant is that there was no mistake on the part of the respondents while declaring the applicant's result in the written part of the said examination earlier 'as passed'. The applicant further contended that so far as he is concerned, he clearly indicated that he belonged to category No.6 (OBC). But the contention of the respondents that there was a mistake due to mechanical problems that his candidature was taken as the one belonging to '6, 3, 4' (OBC, Ex-Serviceman and Physically Handicapped), and in fact, the applicant belonged to category No.6 (OBC), etc. <sup>we</sup> have no reason to disbelieve this statement. It is always permissible and it would be within the power of the authorities to correct the mistakes or errors, if discovered. When it was discovered that the applicant in fact, belonged to category No.6 (OBC) only, and accordingly in OBC category he would fail, and the same was intimated to the applicant vide impugned order at Annexure A/1. In these circumstances, we are of the opinion that it is not necessary for us to call for the results pertaining to the said examination, as prayed for by the applicant in M.A. No. 133/2000.

8. For the above reasons, we do not find any merit in these applications. Accordingly, we pass the order as under:-

"Both the Original Application No. 207/99 and the Miscellaneous Application No. 133/2000, are dismissed. But in the circumstances without costs."

  
(GOPAL SINGH)  
Adm. Member

  
(JUSTICE B.S. RAIKOTE)  
Vice Chairman

Copy done sent to the command  
for Applicant vide T-10-109 of 01-3-2001

Part II and IM destroyed  
in my presence on 27-3-07  
under the supervision of  
section officer as per  
order dated 19-12-02  
Section officer (Record)

R/COM  
16/2

AD New with  
28/8/07  
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