

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00190/2016

Reserved on :26.07.2016

Jodhpur, this the 04th day of August, 2016

CORAM

Hon'ble Dr. Murtaza Ali, Judicial Member

Hon'ble Ms Praveen Mahajan, Admn. Member

Jagwant Singh S/o Sh. Phulel Singh, B/c Jat Sikh, aged about 24 years, R/o Village Malkana Khurd, Tehsil Sri Karanpur, District Sri Ganganagar.

.....Applicant

By Advocate: Mr H.S Sidhu

Versus

1. Union of India through the Secretary, Staff Selection Commission (North Region), Block No.12, CGO Complex, Lodhi Road, New Delhi 110003.
2. The Regional Director, (Northern Reason), Staff Selection Commission, Block No.12, CGO Complex, Lodhi Road, New Delhi 11504.
3. The Chairman, Head Quarters, Staff Selection Commission, Block No.12, CGO Complex, Lodhi Road, New Delhi 11504.

.....Respondents

By Advocate : Mr Vipin Dhania

ORDER

Per Dr Murtaza Ali

Through this OA, filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant seeks the following reliefs:

- “(a) that the respondents may kindly be directed to consider the candidate of the applicant in the OBC category and provide him an appointment according to his merit against the posts as mentioned in the advertisement Annexure A/1, with all consequential benefits.***
- (b) That the respondents may kindly be directed to consider the certificate of the applicant Annex. A/5 to be valid issued by the competent authority.***
- (c) Any other order/relief/direction which this Hon’ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.***
- (d) That the cost of this application may be awarded to the applicant”.***

2. The brief facts of the case are that in pursuance of advertisement/notice dated 2.5.2015 the applicant appeared for appointment of various posts under OBC category in the Combined Level Examination 2012. The applicant qualified preliminary as well as main examination and he was called for interview as well as for document verification on 1.3.2016. The applicant produced all his

Sub Tehsildar, Kesharisinghpur Tehsil Sri Karanpur, District Sri Ganganagar and it has been alleged that the respondents have wrongly refused to accept the same mainly on the ground that it has not been issued by the Competent Authority. Notices were issued to the respondents for filing reply on 15.3.2016 and they were also directed to keep one post vacant under OBC category for next 14 days. No reply was filed on behalf of respondents.

3. Heard Shri H.S. Sidhu counsel for the applicant and Shri Vipin Dharnia counsel for the respondents and perused the record.

4. It has been contended on behalf of applicant that the OBC certificate submitted by him was issued by the Competent Authority and the similar certificate issued by the same authority was accepted at the earlier occasions, therefore, the respondents have illegally refused to accept the similar certificate of OBC category.

5. Learned counsel for the respondents has drawn our attention to the terms and condition of advertisement and contended that the OBC certificate produced by the applicant was not on the prescribed format and, therefore, it could not be accepted and the respondents

have rightly refused to entertain the certificate produced by the applicant.

6. We have gone through the terms and conditions mentioned in the said advertisement in respect of production of certificates for claiming reserved vacancies. The relevant para of advertisement is being reproduced below –

"5 (J) Process of Certification and Format of Certificates:

Candidates who wish to be considered against vacancies reserved/or seek age-relaxation must submit requisite certificate from the competent authority, in the prescribed format when such certificates are sought by concerned Regional/Sub Regional Offices at the time of Interview/Skill Test/Document Verification after Tier –II Examination. Otherwise, their claim for SC/ST/OBC/PH/Exs status will not be entertained and their candidature/applications will be considered under General (UR) category. The formats of the certificates are annexed. Certificates obtained in any other format will not be accepted. OBC certificate in the prescribed format issued between 2.6.2012 and upto 29.11.2015, only will be accepted. Candidates are warned that they will be permanently debarred from the examinations conducted by the Commission in case they fraudulently claim SC/ST/OBC/ExS/PH status".

(Emphasis supplied)

In the said advertisement, the format of certificate to be produced by OBC candidates has also been given as Annexure VII which is also being reproduced below:-

"ANNEXURE –VII

(FORM OF CERTIFICATE TO BE PRODUCED BY OTHER BACKWARD CLASSES APPLYING FOR APPOINTMENT TO POSTS UNDER THE GOVERNMENT OF INDIA)

This is to certify that Shri/Smt. Kumari _____ son/daughter of _____ of Village/town _____ in District/Division _____ in the State/Union Territory _____ belongs to the _____ community which is recognized as a backward class under the Government of India, Ministry of Social Justice and Empowerment's Resolution No. _____ dated _____. Shri/Smt./Kumari _____ and/or his/her family ordinarily reside (s) in State/Union Territory. This is also to certify tht he/she does not belong to the persons/sections (Creamy Layer) mentioned in Column 3 of the Schedule to the Government of India. Department of Personnel & Training OM No. 36012/22/93-Estt (SCT) dated 8.9.1993**.

District Magistrate _____

Deputy Commissioner etc. _____

Dated;

Seal

* The authority issuing the certificate may have to mention the details of Resolution of Government of India, in which the caste of the candidate is mentioned as OBC.

Note: The term "Ordinarily" used here will have the same meaning as in Section 20 of the Representation of the People Act, 1950".

7. It has clearly been mentioned in the terms and conditions of


certificate obtained in any other format will not be accepted. On perusal of certificate (Annexure A-4) submitted by the applicant, it is evident that the certificate produced by the applicant is not on the prescribed format.

8. In the case of ***Bedanga Talukdar vs. Saifudaullah Khan & Ors*** reported in ***(2011) 12 SCC 85***, it has been held by Hon'ble Supreme Court that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Thus we are of the view that no direction can be issued by the Tribunal against the terms and conditions contained in the advertisement.

9. In view of the above principle laid down by the Hon'ble Supreme Court, the applicant cannot be permitted to submit her caste certificate other than on the format prescribed in the advertisement. Thus, we are of the considered view that the respondents have not committed any mistake in refusing to entertain the OBC certificate presented by the applicant which was not on the prescribed format.

10. Accordingly, O.A. is dismissed and the interim order dated 15.3.2016 is vacated. No order as to costs.


[Praveen Mahajan]
Administrative Member


[Dr Murtaza Ali]
Judicial Member

Manish/-