

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT BENCH AT BILASPUR

Original Application No. 129 of 2002

Bilaspur, this the 5th day of July, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Vijay Kumar Choudhary, Son of
Shri Ghanshyam Lal Choudhary,
aged about 28 years, R/o. Gram and
Post Rajga, District Janggeer-Champa,
Chhattisgarh.

... Applicant

(By Advocate - None)

V e r s u s

1. Union of India, through the
Secretary, Ministry of Railways,
New Delhi.
2. The Railway Recruitment Board,
through its Secretary, East Railway
Colony, Bhopal - 462 010.
3. The Chairman, Railway Recruitment
Board, East Railway Colony,
Bhopal - 462 010.

... Respondents

(By Advocate - Shri M.N. Banerjee)

O R D E R (Oral)

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has
claimed the following main reliefs :

"(i) to call for the records pertaining the
applicant's candidature for selection to the post of
Assistant Driver (Elect/Diesel) for which written
examination and Psychological test was conducted on
16.9.2001 and 4.12.2002 respectively at Bhopal,

(ii) to direct the respondents to treat the applicant's
candidature as OBC candidate and declare his result
accordingly,

(iii) to direct the respondents to grant appointment to
the applicant as Assistant Driver (Elect/Diesel) in the
reserved quota meant for OBC."

2. The brief facts of the case are that the Railway
Recruitment Board, respondent No. 2 invited applications from
eligible candidates for selection and appointment to various



posts in the Railway services. Amongst them post of Assistant Driver (Elect/Diesel) were also notified and the break-up of the post of Assistant Driver available for appointment through selection is, 58 posts reserved for general category, 41 for OBC, 24 for SC, 12 for ST and 63 for Ex-Servicemen. Hence, the total number of posts notified is 198. The applicant applied for the same as he fulfils the eligibility conditions. The applicant submitted that the Ministry of Social Justice and Empowerment vide resolution dated 6.12.1999 resolved and decided to notify inclusion/amendment in the Central list of other backward classes in respect of State/Union territories specified therein. It was further indicated that such inclusion/amendment was to take effect from the date of issue of resolution. Amongst others in relation to the State of Madhya Pradesh, the caste of Agharia has been included in the Central List of Other Backward classes for the state of Madhya Pradesh. The applicant belongs to Agharia caste in Madhya Pradesh and hold a caste certificate to that effect issued from the office of Tahsildar, District Janjgeer-Champa. The presidential order of the Union of India published in the Gazettee of India dated 6.12.1999 was published in the official compilation of Madhya Pradesh some time around July 2001 and therefore the certificate was issued subsequent thereto. The admission card for appearing in the written examination was issued to the applicant. The written examination was conducted on 16.9.2001. In the covering page of the answer sheet the candidate was required to tick mark as against the classified class/community/caste, which he or she belongs to. Since the applicant belongs to OBC, he tick marked against OBC. This has been done by him by virtue of the fact that the caste Agharia has been classified and notified as OBC by the Govt. of India vide its resolution dated 6.12.1999. The requirement of tick mark against the class/community column was duly notified by the Railway recruitment



Board through its instructions. The applicant was declared successful in the written examination in October, 2001. Thereafter, a call letter was issued for appearing in psychological test. The applicant in the said test has also notified that he belongs to OBC category. In the result declared on 20.12.2001 published in the employment news January, 2002, the roll number of the applicant did not figure. The Government of India's resolution dated 6.12.99 published in the Gazette of India^{as} was not available in the Court of Tahsildar, District Janjgeer-Champa, hence, the caste certificate was issued at a later stage. The caste of Agharia has been notified as OBC and has come into force with effect from the date of resolution i.e. 6.12.1999. As soon as the applicant obtained the certificate, he immediately wrote back to the respondents Nos. 2 and 3 vide letter dated 4.10.2001 and enclosed the caste certificate and Government of India notification. In the said letter the applicant requested that his candidature should be treated as OBC in the light of Government of India's resolution dated 6.12.1999. Since his candidature has not been accepted in OBC category, he has been denied the benefit of reservation and consequently denied the appointment as Assistant Driver (Elect/Diesel). Hence, the applicant has approached this Tribunal, claiming the aforesaid reliefs.

3. None for the applicant. Since it is an old case of 2002 we proceed to dispose of this Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents and perused the records.

4. The learned counsel for the respondents argued that the applicant has submitted his application dated 29.3.2001 in which he had mentioned his caste as General in column No. 6.

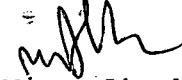


No caste certificate was enclosed with the application. As the applicant has mentioned his caste as General in his application, the same was mentioned in the admit card. The applicant in the written test was declared successful/as general candidate and he was called for psychological test on 4.12.2001. But he could not be selected finally due to his lower merit in the general further category. The learned counsel for the respondents/argued that if the applicant was well aware of the change of his community as OBC vide Govt's resolution dated 6.12.1999, he should have written his caste as OBC instead of general in his application dated 29.3.2001. Hence, he is not entitled for any relief as claimed in the OA.

5. After hearing the learned counsel for respondents and on careful perusal of the pleadings, we find that the applicant has mentioned in his application his caste to be general and not of any other category, but later on vide resolution Annexure A-2 of Ministry of Social Justice & Empowerment when dated 6th December, 1999, Agharia caste was declared as Other Backward Class, the applicant has obtained a caste certificate from the Tehsildar concerned stating his caste as Other Backward Class. Thereafter, the applicant has corrected this fact in the covering page of the answer sheet, wherein the candidate was required to tick mark as against the classified class/community/caste, which he or she belongs to, and as the applicant belongs to OBC he tick marked against OBC. The applicant also informed this fact to the respondents vide his application dated 4.10.2001 i.e. before the final result. But ignoring this material fact, which was based on the document of the Government of India, the respondents have arbitrarily acted upon by not considering the case of the applicant for selection on the post of Assistant Driver (Elect/Diesel), in OBC category.

6. In view of the facts and circumstances of the case, we are of the considered opinion that the Original Application deserves to be allowed. Accordingly, the Original Application is allowed and the respondents are directed to treat the applicant's candidature as OBC candidate and declare his result. If the applicant is found successful then the respondents are further directed to consider the case of the applicant for grant of appointment on the post of Assistant Driver (Elect/Diesel) in the reserved quota meant for OBC. The respondents are also directed to declare the result of the applicant within a period of four months from the date of receipt of copy of this order. No costs.


(Madan Mohan)
Judicial Member

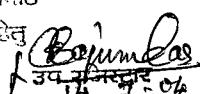

(M.P. Singh)
Vice Chairman

"SA"

कृष्णकन सं. ओ/न्या.....जवलपुर, दि.....
घटिलिनि राये धितः—

- (1) राधेश, उच्च व्यायालाल जर एसोसिएशन, जवलपुर
- (2) अरोहा शे/री की/रु.....के काउंसल
- (3) प्रद्युम्नी शे/री/का.....के काउंसल
- (4) अंकेपहा, दोद्दा, जवलपुर बारातीठ

R. A. Nayak
M. N. Banerjee


B. P. Mukherjee
14. 7. 04

I issued
on 14-7-04
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