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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00369/2014

Date of Decision : 7.4.2015
Reserved on: 27.03.2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

Subhash Chand s/o Sh. Kishan Lal, age 29 years, r/o village Allapur, Tehsil, District Palwal, P.O. Baghola (HR).

Applicant

Versus

1. Union of India through Secretary, Ministry of Information and Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Chief Post Master General, Haryana Circle, Ambala (HR).
3. Sr. Superintendent of Post Offices, Faridabad Division, Faridabad (HR).

Respondents

Present: Mr. K.B. Sharma, counsel for the applicant.
Mr. Ram Lal Gupta, counsel for the respondents

ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

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"(i) That the impugned order dated 25.3.2014 (Annexure A-6) be quashed and set aside and it be declared that the applicant is entitled to appointment on the post of Postal Assistant.

(ii) That the respondents be directed to consider the candidature of the applicant against the post of Postal Assistant (OBC) Palbar, Post Office and issue him the appointment letter and grant him all consequential benefits from the date same has been granted to candidate lower in merit.

(iii) That the applicant be extended the benefit of the judgement passed by this Court i.e. Annexure A-7 and Annexure A-9."

2. Averment has been made in the OA that the applicant applied for the selection as Postal Assistant/Sorier Assistant in response to Notification No. R&E/34-3/2012 dated 11.8.2012 issued by respondent No. 2 (Annexure A-1). The applicant cleared the aptitude and the typing/computer test and vide letter dated 19.12.2003 (Annexure A-1/A), he was asked by respondent No. 3 to attend the office on 3.1.2014 alongwith original copies of the relevant documents. The applicant submitted the documents as required by the respondents on 27.12.2013 (Annexure A-2). Inadvertently, he annexed the BC Certificate instead of OBC Certificate and again submitted representation dated 7.3.2014 enclosing the OBC Certificate and requested the respondents to appoint him as Postal Assistant (Annexures A-3 and A-4). On 25.3.2014, the applicant submitted an affidavit to the respondents that he belonged to the OBC category (Annexure A-5). However, the respondents vide letter dated 25.3.2014, rejected the candidature of the applicant on the ground

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that the applicant had failed to produce the OBC certificate (Annexure A-6).

3. In the grounds for relief, it has inter alia been stated as follows:-

- (i) Vide letter dated 7.3.2014, the applicant submitted the OBC Certificate to the respondents. Therefore, it was incumbent upon the respondents to issue the appointment letter to the applicant for the post of the Postal Assistant. The action of the respondents in cancelling the candidature of the applicant is illegal and arbitrary.
- (ii) The State Government has issued the Central list of OBCs (Annexure A-8) in which the caste of the applicant i.e. Nai has been mentioned at Sr. No. 29. It is evident from the aforesaid list that the applicant belongs to the OBC category. Therefore, the action of the respondents in cancelling the candidature of the applicant is illegal and arbitrary. The caste of the Nai/Barber in OBC category both in the Central List as well as State List as is evident from the list.
- (iii) Admittedly, the applicant submitted all the relevant documents to the respondents vide letter dated 27.12.2013. The applicant inadvertently annexed the BC Certificate instead of the OBC Certificate. In the BC Certificate, the caste of the applicant has been mentioned as Barber and the same belongs to the category of the OBC.
- (iv) The claim of the applicant is squarely covered by the judgement of the Tribunal in OA No. 351/HR/2013 decided on 19.12.2013(Annexure A-9).

Hence, this OA.

4. In the written statement filed on behalf of the respondents, preliminary objection has been taken that the applicant had filed the present OA without preferring any representation regarding his grievances and hence, the OA was not maintainable. It has further been stated that as specified in point No. 6 of the column No. 27 of the OMR,

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the applicant's declaration was required that the applicant belongs to OBC which reads as follows:-

"I declare that I belong to the community which is recognized as a backward class by the Government of India for the purpose of reservation in services as per orders contained in Department of Personnel and Training Office Memorandum No. 36012/22/93-Estts(SCT) dated 08.09.1993. I also declare that I do not belong to the person/sections (creamy layer) mentioned in column 3 of the schedule of the OM mentioned above and modified vide Government of India DOPT OMS mentioned in the notice. I further declare that I am in possession of OBC certificate issued by authorized authority."

At the end of column 27, the declaration read as follows:-

"I hereby declare that the particulars furnished in this application form are true, complete and correct to the best of my knowledge and belief and will be supported by the original documents as and when required. I also understand that INCOMPLETE/IMPROPERLY filled in application form is liable to be rejected without further consideration. I also declare that I am a citizen of India. I have also informed my present employer while applying for Direct recruitment examination. I fully understand that in case of false/incorrect information found at any stage, my candidature/appointment will be summarily rejected/terminated and appropriate action would be taken against myself."

However, on examination of the documents submitted by the applicant in response to letter dated 19.12.2013 (Annexure A-1/A), it was noticed that the OBC Certificate has been issued on 27.12.2013 i.e. after the last date of submission of application form for recruitment of Postal Assistant i.e. 01.10.2012 whereas the applicant had declared while filling the application form that he was in possession of OBC certificate. Since a wrong declaration had been made by the applicant in his application

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form, the candidature of the applicant for appointment as Postal Assistant had rightly been rejected.

5. Rejoinder has been filed on behalf of the applicant where it has been stated that the applicant had applied for appointment as Postal Assistant under the OBC Category since he belonged to Nai Caste and the same comes under OBC Category, his candidature has been wrongly rejected.

6. Arguments advanced by the learned counsel for the parties were heard when learned counsel for the applicant narrated the background of the matter and placed reliance on judgements in **Dharambir Vs. UOI, OA No. 060/00196/2014** decided on 29.01.2015 and **Delhi Subordinate Services Selection Board & Anr. Vs. Ms. Anu Devi & Anr., W.P.(C.) No. 13870/2009** decided on 17.02.2010. He stated that since the applicant was in possession of a valid OBC Certificate dated 27.12.2013 and he had produced the same before the respondents, his candidature could not be rejected.

7. Learned counsel for the respondents reiterated the content of the written statement.

8. We have given our careful consideration to the matter. From the material on record, it is seen that the last date for submission of the application for appointment as Postal Assistant/Sorting Assistant was 11.8.2012. The OBC Certificate produced by the applicant is dated 27.12.2013. However, the applicant did produce BC Certificate issued by

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SDO (C), Palwal in which the caste of the applicant is mentioned as 'Barber'. This is dated 30.6.1999. Hence, the claim made in this OA would appear to be covered by the judgements in OA No. 060/00196/2014 & W.P.(C.) No. 13870/2009. Taking a sympathetic view of the matter, the respondents are directed to take into account both certificates produced by the applicant as attesting to his belonging to Barber/Nai caste which caste is included in the list of OBCs for Haryana as well as Central Government. The OA is allowed and the applicant may be considered for appointment as Postal Assistant if otherwise eligible.

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(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

B. A. Agarwal
(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh

Dated: 7.4.2015

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