

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA NO.1393/2014

Order reserved on 04.01.2017
Order pronounced on 12.01.2017

HON'BLE MR V.N. GAUR, MEMBER (A)
HON'BLE DR B.A. AGRAWAL, MEMBER (J)

Bhupender, aged about 22 years,
S/o Shri Vinod Kumar,
R/o W-3, H.No.22D,
V&PO Haili Mandi,
Distt. Gurgaon, Haryana. ...Applicant

(By Advocate: Mr. M.K. Bhardwaj)

VERSUS

SSC & Others through:

1. The Chairman,
Staff Selection Commission,
Department of Personnel & Training,
CGO Complex, Lodhi Road,
New Delhi.
2. The Secretary,
SSC, CGO Complex, Lodhi Road,
New Delhi. ...Respondents

(By Advocate: Mr. S.M. Arif)

:ORDER:

DR BRAHM AVTAR AGRAWAL, MEMBER (J):

The applicant craves his selection in the Multi-Tasking (Non-Technical) Staff Examination 2013, conducted by the respondents, as an OBC candidate, as against consideration of his candidature as an unreserved (i.e., general) candidate and being found unsuccessful.

2. We have heard the learned counsel for the parties, perused the pleadings as well as the rulings cited at the Bar, and given our thoughtful consideration to the matter.

3. Notice for the aforesaid Examination was published in the Employment News/Rozgar Samachar dated 10.11.2012 and the closing date for submission of applications was 07.12.2012.

Following instructions need notice:

Paragraph 1, Item 3:

"Regional Offices of the Commission will not undertake detailed scrutiny of applications for the eligibility and other aspects at the time of written examination and, therefore, the **candidature is accepted only provisionally. The candidates are advised to go through the requirements of educational qualification, age etc. and satisfy themselves that they are eligible** before applying. Copies of supporting documents will be sought only from those candidates who qualify in the written test. When scrutiny is undertaken, if any claim made in the application is not found substantiated, the candidature will be cancelled and the Commission's decision shall be final."

Paragraph 4 (C):

"Candidates who wish to be considered against vacancies reserved or seek age-relaxation **must submit requisite certificate** from the competent authority issued on or before the prescribed date, in the prescribed format whenever such certificates are sought by the Regional/Sub-Regional Office. 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. Candidates claiming OBC status may note that the certificate including certificate of creamy layer status should have been obtained **within three years** before the Closing date (i.e. 07.12.2012) or the date of Paper-II of the Written examination.

NOTE I: The Closing date (i.e. 07.12.2012) will be treated as the date of reckoning for OBC status, subject to 4(C) above.

NOTE II: **Candidates are warned that they may be permanently debarred from the examination conducted by the Commission in case they fraudulently claim SC/ST/OBC/ExS/PH status."**

4. The applicant first produced his OBC certificate dated 18.03.2008 (Annexure P-3), which was not of a period "within three years before the closing date (i.e. 07.12.2012) or the date of Paper-II of the written examination" (which is 06.10.2013). His second OBC certificate, produced later, is dated 25.11.2013 (vide Annexure P-6), i.e., of a period after the written examination. The said OBC certificates furnished by the applicant being not in accordance with the above instructions, he was considered as a general candidate. He was considered as a general candidate, also in view of the following undertaking furnished by him:

**"STAFF SELECTION COMMISSION
(NORTHERN REGION)**

UNDERTAKING

Subject:- Multi Tasking (Non-Technical) Staff Examination, 2013 – Undertaking regarding category status.

With reference to my candidature for the above mentioned examination, I Bhupender Roll No.2201530052 undertake that although I applied and qualified written part of examination in OBC category. But I could not furnish the OBC certificate in the Prescribed Proforma for Central Govt. Offices issued by the Competent Authority as per annexure VII of the Notice of the said Examination.

It is, therefore, requested that my category may be treated as UR i.e. (General).

I will not claim for OBC status in future. Decision taken by the Commission regarding my candidature will be acceptable to me.

Signature	(Bhupender)
Name of Candidate	Bhupender
Roll No.	2201530052
Date:	1-1-2014"

5. In **DSSSB & Anr. Vs. Ram Kumar Gijroya & Ors.** (LPA 562/2011) and **Ms. Renu Vs. The Chairman/Secretary, DSSSB & Ors.** [WP (C) 8087/2011], vide its judgment dated 24.01.2012, the Hon'ble High Court of Delhi observed as under:

"13. We have recently in judgment dated 31st October, 2011 in W.P.(C) No.7767/2011 titled **Narayan Lal Meena Vs. Govt. of NCT of Delhi** had occasion to consider the sanctity of the cut-off date qua eligibility qualification and have on a conspectus of the case law, need to reiterate which is not felt, held that eligibility has to be determined as on the cut-off date prescribed and no relaxation can be granted; that the applicants cannot take any advantage of the mistake, if any on the part of the appointing/recruiting authorities in allowing the applicants to appear in the examination and interview; that appointment of an ineligible candidate is illegal and no question of estoppel arises. It was further held that granting any relief to the applicant approaching the Court in such cases would tantamount to giving a benefit to such applicants to the prejudice of others; if the eligibility were allowed to be determined on the date of the interview and/or on the date of appointment, then the same would be to the detriment/prejudice of others who considering themselves to be ineligible as per the terms of advertisement did not apply. It was further held that the same would tantamount to giving premium to the illegality practiced in applying when the person was clearly in the know that he / she was ineligible to apply. It was yet further held that in such situation, it is well-nigh possible that had others similarly placed as the petitioner and who acted honestly and did not apply, also applied and competed, the petitioner may not even have been found successful.

...

18. Another Division Bench of this Court in judgment dated 25th January, 2010 in WP(C) No. 10558/2009 titled **Union Public Service Commission Vs. GNCTD** and other connected Writ Petitions held that the procedure for making applications cannot be given a go-by for accommodating a few people and if this is done there would be no obligation on anybody to follow any procedure resulting in an unmanageable situation. It was further held that the procedure prescribed in the advertisement casts a duty on the applicants to apply in accordance therewith and they cannot be allowed to contend that their application should be accepted even if incomplete. Accordingly, the rejection of the applicants who had not submitted the documents required to be submitted along with the application form was upheld.

19. Else, what has been observed by us qua qualification, equally applies to submission of OBC Certificate also. It is well-nigh possible that a number of other OBC candidates, though otherwise eligible but not in possession of the OBC Certificate by the cut-off date, did not apply under the belief that being required to enclose the OBC Certificate along with the application and being not in possession thereof, their applications would be deficient and not entertainable. It is yet further possible that, had such others applied and competed, the respondents in appeal

and/or the petitioner in the writ petition may not have been eligible. The respondents in appeal and the petitioner in the writ petition were clearly in the know that their applications were incomplete and took a chance. This Court cannot lay down a law which would encourage such practices. The terms and conditions mentioned in the advertisement were intended, to guide/instruct the prospective applicants and there is no reason to dilute the same. Even otherwise, this Court would be loath to issue mandamus/directive contrary to the terms of selection/appointment (see **Karnataka State Road Transport Corporation Vs. Ashrafulla Khan** (2002) 2 SCC 560, **FCI Vs. Ram Kesh Yadav** (2007) 9 SCC 531, **Maharishi Dayanand University Vs. Surjeet Kaur** JT 2010 (7) SC 179 and **State of West Bengal Vs. Subhas Kumar Chatterjee** (2010) 11 SCC 694)."

6. Moreover, none of the judgments relied upon by the learned counsel for the applicant, involved submission of an undertaking of the kind as in this case (*supra*).

7. In the light of the above, we are of the view that the OA is devoid of merits. The same is, therefore, dismissed. No order as to costs.

(B.A. Agrawal)
Member (J)

(V.N. Gaur)
Member (A)

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