

**Central Administrative Tribunal
Principal Bench**

OA No. 3625/2016

Order Reserved on: 24.08.2017
Order Pronounced on: 29.08.2017

***Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)***

Ashok Kumar Batar, age 23 yrs,
S/o Sh. Shriram Singh Batar,
VPO Bataranau, Teh. Laxmangarh,
Distt. Sikar, Rajasthan-332311.

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

... Applicant

Versus

1. Delhi Metrol Rail Corporation (DMRC),
Through its Managing Director,
Metro Bhawan, Barakhamba Road,
New Delhi-110001.
2. Sr. DGM/HR,
Delhi Metrol Rail Corporation (DMRC),
Metro Bhawan, Barakhamba Road,
New Delhi-110001.

... Respondents

(Mr. Gulab Chandra, AM/Legal & IR DMRC Ltd.,
Departmental representative)

ORDER

By Hon'ble Ms. Nita Chowdhury, Member (A)

Applicant has filed this OA seeking the following reliefs:

“(a) to give to the Applicant due weightage of
reservation in OBC category and consequently

evaluate his performance vis-a-vis the final cut-off marks prescribed for the OBC category and accordingly appropriately place him in the panel of shortlisted candidates for further stage of Medical Examination;

(b) to appoint him to the post of Station Controller/Train Operator subject to Medical fitness;

(c) to grant him all the benefits of seniority and continuity in service with effect from the date the person immediately beneath the applicant in the empanelled list is made to join; and

(d) to pass any other order which this Hon'ble Tribunal may deem fit & appropriate.”

2. Brief facts relevant for adjudication of this matter are that the applicant applied for the post of Station Controller/Train Operator in response to the notification of advertisement issued by DMRC and cleared all the stages for selection, i.e., written test, psycho test followed by interview. He claims to have qualified on the grounds of scoring higher marks than the final cut offs prescribed for the OBC category and alleges that he has wrongly not been shortlisted for medical examination by arbitrarily treating him as a General category candidate without any show cause notice or intimation regarding any deficiency in his OBC certificate. He claims that he very much falls within the merit and cut off for OBC category and should have been shortlisted for document verification and medical examination for the post of Station Controller/Train Operator. The action of the respondents to exclude him from the final merit list for

undergoing further process such as verification of documents and medical examination is unfair, arbitrary and deserves to be set aside.

3. Today, counsel for applicant drew my attention to the response given by the respondents in their counter affidavit and specially drew attention to para 4 of the reply given by the respondents in which it has been conceded by them that in a similar case decided by this Tribunal in OA No.4214/2015;

Vivek Kumar vs. DMRC, on the same issue regarding reservation of candidates under OBC belonging to Rajasthan, this Tribunal held that Jats of Rajasthan cannot be taken as belonging to OBC. The case has been carried to Hon'ble Delhi High Court. The Hon'ble High Court in WP (C) No.1751 of 2016 vide its decision, dated 28.03.2017, set aside the orders of the Hon'ble Tribunal and concluded that the Hon'ble Supreme Court in the case of Ram Singh and ors. vs. Union of India, (2015) 4 SCC 697 had struck down Notification dated 4th March, 2014 and not the earlier Notification, dated 27.10.1999.

Therefore, OBC category candidates from the State of Rajasthan, except from Bharatpur and Dholpur districts, are to be given the status of OBC candidates and accordingly conferred benefits of OBC reservation. In arriving at this conclusion, the Hon'ble High Court relied upon the affidavit

filed by the Union of India stating that the Jats in the State of Rajasthan, except for Bharatpur and Dholpur districts, continue to remain in the Central List of OBCs.

4. Departmental representative Sh. Gulab Chand, AM/Legal & IR appeared on behalf of DMRC and confirmed that as stated in the affidavit of DMRC especially in view of the categorical pronouncement of the Hon'ble High Court, which view is further fortified by the decision of the Union of India, holding that the Jats in the State of Rajasthan except for Bharatpur and Dholpur districts continue to remain in the Central List of OBCs, Respondents have decided to act in terms of the Order, dated 28.03.2017, passed by the Hon'ble High Court of Delhi in WP(C) No.1751/2016, titled as **Shri Vivek Kumar vs. DMRC**. By order dated 11.07.2017 respondents have decided that in all future recruitments and in case of pending matters before this Tribunal, wherein reservation for OBC is provided, the candidature of Jats from the State of Rajasthan, except for Bharatpur and Dholpur districts, shall be treated as eligible OBCs for reservation purposes. The case of the applicant shall be considered in the light of relevant rules applicable for reservation.

5. After hearing both the parties and in view of the counter affidavit submitted by the DMRC, it becomes clear that the

name of the applicant must appear in the list of shortlisted candidates for OBC category for further process of documents verification, medical examination and for appointment against the applied post in view of the relevant rules applicable for reservation in this matter. Accordingly, OA is allowed. DMRC is directed to further process the eligibility of the applicant for appointment within a period of 90 days from the date of presentation of a copy of this order to them. No order as to costs.

(Nita Chowdhury)
Member (A)

(Raj Vir Sharma)
Member (J)

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