

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA No.2688/2017

Order Reserved on: 16.08.2018

Pronounced on:04.10.2018

Hon'ble Mr. K.N. Shrivastava, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Neelam Yadav
W/o Sh. Sanjay Yadav
Aged about 35 years
Group 'B'
R/oP.D. 109B, Vishakha Enclave,
Pitampura, Delhi-110034

-Applicant

(By Advocate: Shri K.P. Gupta)

Versus

1. Govt.of NCT of Delhi
Through its Chief Secretary
Delhi Secretariat, I.P.Estate,
New Delhi
2. Delhi Subordinate Services Selection Board (DSSSB)
FC-18, Institutional Area,
Karkardooma,
Delhi-1100092
Through its Secretary
3. The Director of Education
Govt.of NCT of Delhi
Old Secretariat,
Delhi.

-Respondents

(By Advocate: Shri K.M. Singh)

ORDER**Hon'ble Shri K.N.Shrivastava, Member (A):**

Through the medium of this Original Application (OA), filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:

- a. To quash and set aside the rejection Notice bearing No.159 dated 30.06.2017 (Annexure-A1) issued under the signature of Deputy Secretary, DSSSB in respect of the applicant with Roll No.45001155.
- b. To direct the respondents to consider the applicant for appointment to the post of TGT (Hindi) Female under Post Code No.07/13 and Post Code No.109/12 in OBC category.
- c. To direct the respondent No.3 to include the name of the applicant in the list of Roll Number wise marks statement of Post CodeNo.07/13 and in the common list of Post CodeNo.07/13& 109/12."

2. The factual matrix of the case, as noticed from the records, is as under:

2.1 The Delhi Subordinate Services Selection Board (DSSSB) issued Annexure A-7 advertisement no.02/12, inviting applications for various posts, including the post of TGT (Hindi) (Post Code-109/12). The applicant applied for the said post under OBC category. She had furnished Annexure A-2 OBC caste certificate dated 04.07.2011 issued to her by the Deputy Commissioner (North West District) Delhi. The DSSSB could not conduct the written examination during that year. In the meanwhile, DSSSB came out with Annexure A-8 advertisement No.01/13, inviting applications for various posts, including the post of TGT (Hindi) (Post Code-

07/13). The applicant applied for the said post. A common written examination for both the post codes (109/12 & 07/13) was held on 28.12.2014. The applicant was issued two separate admit cards for the said Post Codes, i.e., 109/12 & 07/13 (p.48-49). The result notice for the Post Code 109/12 was published on 24.11.2015 (Annexure A-5). Applicant's name (Roll No.45001155) appeared in the list of successful candidates. The list also indicated that she had secured 98 marks out of 200 marks.

2.2 The applicant was called for documents verification vide Annexure A-10 letter of DSSSB dated 07.04.2017. The grievance of the applicant is that despite her having been declared as successful in the written examination, her candidature for the post has been rejected vide rejection notice no.159 dated 30.06.2017 (Annexure A-1) on the ground that she belongs to OBC (outside). Accordingly, she has approached the Tribunal in the instant OA and has claimed the reliefs, as indicated in para-1 supra.

3. The main grounds pleaded by the applicant in support of the reliefs claimed are as under:

3.1 The OBC certificate has been issued to her by the Deputy Commissioner (North West District) Delhi; a functionary of GNCTD and as such she cannot be called as OBC (outside).

3.2 The applicant is residing in Delhi since 08.09.1993 and 'Yadav' caste, to which she belongs, is also included in the list of OBCs of Delhi.

3.3 Her son Akash Yadav has also been issued OBC certificate by Delhi Administration and as such it cannot be said that she is not an OBC of Delhi.

4. Pursuant to the notices issued, the respondents entered appearance and filed their reply in which they have made the following important averments:

4.1 Annexure A-2 OBC certificate was issued by the Revenue Department of GNCTD on the basis of an old caste certificate issued to her brother Shri Abhinav Yadav on 10.07.2002 by Tehsildar, Chhipra, Mau, District Lanjo, UP. As per the rules, such certificate can be issued only on the basis of the OBC certificate issued to any member of the family by GNCTD only.

4.2 The applicant's brother Shri Abhinav Yadav is stated to be a resident of Chhipra Mau Distirct, Lanjo, UP. There is no such District in UP.

5. The applicant has filed a rejoinder to the reply filed on behalf of the respondents in which, besides reiterating the averments made in the OA, it is stated that due to typographical mistake, the

name of the UP District mentioned in the caste certificate of her brother is mentioned as Lanjo whereas it should have been Kannoj.

6. On completion of the pleadings, the case was taken up for hearing the arguments of the learned counsel for the parties on 16.08.2018. Arguments of Shri K.P. Gupta, learned counsel for the applicant and that of Shri K.M. Singh, learned counsel for the respondents were heard. The learned counsel by and large reiterated their respective pleadings. Additionally, Shri K.M. Singh placed reliance on the judgment of the Hon'ble High Court of Delhi dated 12.09.2012 in the case of **Deepak Kumar and Ors. v. District and Sessions Judge, Delhi and Ors.**, [W.P. (C) No.5390/2010, C.M. No.20815/2010 along with several other Writ Petitions].

7. We have considered the arguments of the learned counsel for the parties and have also perused the pleadings and documents placed on record. As per the extant rules of GNCTD, an OBC caste certificate can be issued to a person, including a migrant, if he or she is found to be residing in Delhi before 08.09.1993. In the context of a migrant, the OBC certificate can be issued, on the basis of the OBC caste certificate issued to any member of his/her family, provided that such certificate is issued by the concerned Functionary of GNCTD. In the instant case, it is noticed that the applicant's caste certificate has been issued by the Deputy

Commissioner (North West District) GNCTD on the strength of a caste certificate issued to her brother by Tehsildar Chippra, Mau, District Kannoj, UP. Hence, such a caste certificate cannot be accepted on its face value. The OBC caste issuing authority of GNCTD, in this case Deputy Commissioner (North West District) GNCTD, ought to have made independent verification as to whether the applicant indeed has been residing in Delhi since or earlier to 08.09.1993 and whether the caste to which she belongs has been included in the list of OBC of GNCTD or not. Unfortunately, such verification has not been done and the Annexure A-2 OBC caste certificate has been issued to her in a very lackadaisical and perfunctory manner. It is stated that 'Yadav' caste is included in the list of OBC of GNCTD and the applicant claims that she belongs to that caste. We also understand that on the basis of the Annexure A-2 OBC certificate issued to her by the Deputy Commissioner (North West District) GNCTD, she would have become complacent in regard to her OBC status. Her grievance against the non-acceptance of the OBC certificate by the DSSSB is also understandable.

8. We find that the judgment of the Hon'ble High Court of Delhi in the case of **Deepak Kumar & Ors.** (supra) has no applicability to the present case, as the issue involved therein was as to whether the petitioners therein belonged to SC & ST or not, whereas in the instant case the applicant's OBC caste certificate is in question.

9. The controversy involved can only be resolved by issuing a direction to GNCTD to verify the OBC status of the applicant afresh and issue her a fresh caste certificate.

10. In the conspectus of the discussions in the foregoing paras, we dispose of this OA in the following terms:

i) The Deputy Commissioner (North West District), GNCTD is directed to verify the caste status of the applicant within a period of two months from the date of this order. Obviously, while doing so, the period of her residing in Delhi is to be verified and so also it is to be re-confirmed as to whether her caste is included in the list of OBC of GNCTD or not.

ii) If the Deputy Commissioner (North West District), GNCTD issues an OBC caste certificate to the applicant afresh, the same shall be considered by the DSSSB and in terms of her having been declared successful in the written examination for the post of PGT (Hindi) (Post Code 109/12) the DSSSB shall recommend her for appointment to the said post to the Director of Education, respondent no.3, within four weeks of the receipt of the caste certificate.

11. No order as to costs.

(S.N. Terdal)
Member (J)

(K.N. Shrivastava)
Member (A)

‘San.’