

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA No.3299/2015

Order Reserved on: 26.09.2018

Pronounced on:05.10.2018

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

Pooja Sehrawat
D/o Raj Singh Sehrawat
R/o H.No. 19-A,
Mukhtyar Singh Marg
(Auchandi Road)
Vill & PO-Bawana,
Delhi-39.

- Applicant

(By Advocate: Shri U.Srivastava)

Versus

Govt.of NCT of Delhi through

1. The Chief Secretary
Govt.of N.C.T of Delhi,
Delhi Secretariat,
New Delhi.
2. The Secretary
Department of Social Welfare
Govt. of NCT Delhi,
GLNS Building
Delhi Gate,
New Delhi.
3. The Delhi Subordinate Services
Selection Board
Through its Secretary,
FC-18, Institutional area
Karkarduma,
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 relief:

“(b). Quash and setting aside the impugned order dt. 18.08.15 and directing the respondents to consider the request of the applicant for changing of her category from UR/Gen to OBC for recruitment to the post of Welfare Officer Grade-II notified by DSSSB vide its post code 148/14 in accordance with the relevant rules and instructions on the subject more particularly the law laid down by the Hon'ble Madras High Court on dt. 20.07.12 in WP(MD) No.7078/2012 and MP(MD) No.1/2012 titled as Minor V Harshan Vs. The Chairman.”

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

2.1 Pursuant to an advertisement notice no.01/14 dated 20.01.2014 Delhi Subordinate Services Selection Board (DSSSB), the applicant applied for the post of Welfare Officer Grade-II (Post Code-148/14). The last date for submission of applications was 27.02.2014. She applied under UR category. The written test was conducted on 22.06.2014. The result of the selection was published vide Annexure A-6 notice dated 07.07.2015. The applicant's name does not figure in the select list under UR category.

2.2 The applicant contends that she belongs to OBC category ('Jaat caste') and accordingly she furnished OBC certificate on

26.06.2015, i.e., a week before the publication of the Annexure A-6 notice. As her request for consideration of her candidature under OBC category was not considered by the DSSSB, the applicant approached the Tribunal in OA No.2539/2015, which was disposed of at the admission stage itself vide order dated 20.07.2015 with a direction to the DSSSB to consider her pending representation dated 26.06.2015 and dispose of the same by passing a reasoned and speaking order.

2.3 In compliance of the Tribunal's order, the DSSSB vide its impugned Annexure A-1 order dated 18.08.2015 has rejected the representation of the applicant; operative part of which reads as under:

“In compliance of the above, the case of the applicant i.e. Ms. Pooja Sehrawat has been examined and it is found that the applicant applied under the UR category for the post of Welfare Officer, Grade-II, Post Code 148/14 and accordingly, the Master Data for the post code 148/14 was prepared for evaluation of marks and thereafter the declaration of result. The marks of the candidates were declared on 07-07-2015 by the Board and the result of the post of Welfare Officer, Grade-II under post code 148/14 has also been declared by the Board on 24-7-15 vide Office Order No.421. Therefore, her category cannot be changed from UR to OBC now. Further, in her representation, the applicant has given wrong submission that the Board changes the category of an OBC candidate from OBC to Gen/UR category, which is denied and is a misunderstanding on the part of the applicant.”

2.4 Aggrieved by the Annexure A-1 impugned order of DSSSB the applicant has approached the Tribunal in the instant OA praying for the reliefs as indicated in para-1 supra.

3. The applicant has preferred the following important grounds in support of the relief claimed:

3.1 She belongs to OBC category in support of which she has already furnished the OBC certificate dated 26.06.2015 which has not been considered. The DSSSB has unfairly rejected her request for change of category from UR to OBC.

3.2 In an identical case, the Hon'ble Madras High Court in W.P. (MD) No.7078/2012, decided on 20.07.2012 in the case of **Minor V. Harshan v. The Chairman, Indian Institute of Technology, Chennai & Anr.** has granted the change of category even after the examination result was announced.

3.3 The respondents have changed category of several OBC candidates to general category, as is evident from the Annexure A-6 notice dated 7.7.2015. The applicant had applied for change of category well within time and before the publication of the result.

4. Pursuant to the notice issued, the respondents entered appearance and filed reply as well as additional affidavit in which they have broadly averred as under:

4.1 The applicant had applied for the post of Welfare Officer (Post Code-148/2014) under UR category. She secured 97 marks in the written examination which was below the cut off marks for the UR

category and consequently she was not selected. Her stand to change her category from UR to OBC is an afterthought.

4.2 The applicant has wrongly contended that she applied for Post Code 148/14 under UR category because she had lost her OBC certificate at the time of applying for the post of Welfare Officer. After the marks for Post Code 148/14 were uploaded on the website of DSSSB, the applicant changed her stand and started pressing for consideration of her candidature under the OBC category.

5. The applicant in her rejoinder has, *inter alia*, submitted that she had applied for three other Post Codes vis-a-vis the same advertisement under the OBC and had duly furnished her OBC certificate and her candidature for those posts have been considered in accordance with her OBC status.

6. On completion of the pleadings, the case was taken up for hearing the arguments of the learned counsel for the parties on 26.09.2018. Arguments of Shri U. Srivastava, learned counsel for the applicant and that of Shri K.M. Singh, learned counsel for the respondents were heard.

7. We have considered the arguments of the learned counsel for the parties and have also perused the pleadings. It is not in dispute that the applicant had applied for the post of Welfare Officer Grade-II (Post Code-148/14) under the UR category and only after coming to know of her result, she started pressing for consideration of her

candidature under the OBC category. The last date for submission of the applications was 27.02.2014. The written examination was held on 22.06.2014. The applicant has failed to explain as to why she has kept quiet for such a long period of time to request for change of her category. The applicant has relied on the following judgments to buttress her contention that the change of category can be considered even after the results are published:

i) Judgment of Hon'ble Apex Court in CA No.1691/2016 dated 24.02.2016 – **Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board & Anr.**

ii) Judgment of the Hon'ble High Court in **Minor V. Harshan v. The Chairman, Indian Institute of Technology & Anr.**, [WP (MD) No.7078/2012, decided on 20.07.2012].

iii) Judgment of this Tribunal in OA No.1383/2013, order dated 21.02.2017 –**Preeti Sharma & Ors. v. GNCTD & Anr.**

8. The respondents have relied on the following decisions of the Tribunal:

a) **Devender Yadav & Ors. v. DSSSB & Orss.**, [OA No.4572/2014, order dated 12.08.2016.]

b) **Rajesh Kumar & Anr. v. GNCTD & Ors.**, [OA No.1029/2016, order dated 23.03.2017].

9. We have perused all the judgments relied upon by the parties. We find that the judgments relied upon by the applicants have been duly considered and analysed by the Tribunal in **Devender Yadav** (supra). The stand taken by the Tribunal therein is that if the change of category is allowed after the declaration of the result in respect of certain candidates, it would have cascading effect and would also be amounting to causing injustice to other candidates similarly placed with the applicant who are not before the Tribunal and who would also be entitled to get the relief as claimed by the applicant. Therefore, the Tribunal has taken a very pragmatic and judicious view not to allow change of category after the results have been announced. There is nothing on the records to indicate that the orders of the Tribunal relied upon by the respondents have been reversed by the superior courts. As such, these orders are having the effect of binding precedent in the adjudication of the controversy in this OA.

10. We also notice that as per the contention of the applicant, she had also applied for three other Post Codes *qua* the same advertisement of the DSSSB wherein she purportedly declared her status as OBC, which according to her has been considered. If the contention of the applicant is indeed correct, what prevented her from submitting a copy of the OBC certificate along with her application for the Post Code 148/14, Welfare Officer Grade-II as well. It is settled proposition of law that the candidature of a

candidate has to be considered in terms of the documents made available by the candidate on the last date of submission of his/her application for the post. Hence, relying on the order of the Tribunal in **Devender Yadav** (supra), we dismiss this OA for the reasons discussed hereinabove.

11. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(K.N. Shrivastava)
Member (A)

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