

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

O.A. No.2530 of 2012

This the 17th day of September, 2018

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

Mandeep Singh
S/o Rajinder Singh
Roll No.2210627793
VPO-Badusarai – Chhawla,
New Delhi.

....Applicant

(By Advocate : Shri Sachin Chauhan)

VERSUS

1. Staff Selection Commission,
Through the Chairman,
Block-12, CGO Complex,
Lodhi Road, New Delhi-3.
2. The Under Secretary (NR),
Staff Selection Commissioner,
Northern Regional Office,
Block-12, CGO Complex,
Lodhi Road, New Delhi-3.

.....Respondents

(By Advocate : Shri S.M. Arif)

ORDER (Oral)

Ms. Nita Chowdhury, Member (A):

By filing this OA, the applicant has sought the following
reliefs:-

- “(i) To quash and set aside order dated 10.2.2012 whereby the candidature of applicant is cancelled and further the respondent be directed to consider the case of applicant under OBC category in the light of OBC certificate issued by competent authority of Central agency and if found genuine/authentic then applicant be given

appointment to the post of MTS with Roll No.2201627793 with all consequential benefits including seniority and promotion and pay & allowance.

- (ii) To direct the respondents to dispose of the representation of the applicant (annexed along with the OA) for considering the case of applicant as OBC candidate for the post of MTS with Roll No.-2201627793 by a speaking order.
- (iii) Any other relief which this Hon'ble Court deems fit and proper may also be awarded to the applicant."

2. Brief facts of the case are that the applicant applied for the post of Multi Task (Non-Technical) Staff (MTS) in Different States and Union Territories 2011 pursuant to Staff Selection Commission notice and closing date of submission of such applications was 31.12.2010. He applied for the said post as an OBC candidate and annexed OBC certificate.

2.1 According to the applicant, he appeared in the written examination and obtained 93 marks which were the marks more than the cut off marks of the last OBC candidate selected in the examination. However, he received a Memorandum dated 10.2.2012 whereby the applicant was informed that he has not submitted proper OBC certificate as per the Notice of the examination and his result was also determined in UR category wherein he does not qualify in the said result and his candidature for the said recruitment was cancelled.

2.2 Being aggrieved by the said Memorandum dated 10.2.2012, the applicant has submitted his representation

dated 21.5.2012 requested the concerned authorities to consider the case of the applicant as OBC category for the said post in the light of OBC certificate issued by competent authority of Central Authority dated 3.5.2012. Applicant in support of his claim has placed reliance on Orders of this Tribunal in OAs 2392/2009, 601/2010, 1059/2008 and also of judgment of Hon'ble High Court in the case of **Sunita vs. Govt. of NCT of Delhi**, 2005 (119) DLT 368.

2.3 When the respondents have not taken any action on the same, the applicant filed this OA seeking the reliefs as quoted above.

3. Pursuant to notices issued to the respondents, they filed their reply, in which they stated that the applicant failed to produce the appropriate OBC certificate within the stipulated dated, i.e., on or before 27.2.2011. Therefore, he was not considered as an OBC candidate. They further stated that applicant on his own has given an undertaking that he be considered as unreserved category candidate and as per UR category candidate, he could not make it to the Select List and therefore, was not selected and accordingly, he was informed vide letter dated 10.2.2012, which is impugned by the applicant in this OA.

3.1 They further stated that the applicant submitted another OBC certificate dated 3.5.2012, which was beyond the cut off date, i.e., 27.2.2011 for furnishing of valid OBC

certificate. In support of their stand, the respondents have placed reliance on the judgment of Hon'ble High Court of Patna in CWJC No.2010 decided on 5.10.2010.

4. The applicant has also filed his rejoinder in which reiterated the averments made in the OA and denied the contents of the counter affidavit filed by the respondents.

5. During the course of hearing, learned counsel for the applicant submitted that the applicant being an OBC category candidate submitted his category certified when the same was not as prescribed by the respondents in the advertisement, he has submitted his OBC certificate of competent authority as per the requirement of the advertisement dated 3.5.2012 after receipt of the impugned Memorandum dated 10.2.2012 and also submitted his representation against the said Memorandum but the respondents have not taken any action of the same. In support of his claim, the counsel placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Ram Kumar Gijroya vs. Delhi Subordinate Services Selection Board and others*** in Civil Appeal No.1691/2016 decided on 24.2.2016. Counsel further submitted that the case of the applicant is required to be considered as an OBC category candidate and the reliefs sought in this OA be also granted in favour of the applicant.

6. Counsel for the respondents submitted that the reliance placed on the aforesaid judgment of the Apex Court in the

case of **Ram Kumar Gijroya** (supra) is not helpful to the applicant as in the present case applicant himself gave an undertaking on 3.12.2011 that :

“With reference to my candidature for the above mentioned examination, I MANDEEP Roll No.2201627793 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 on or before 27.02.2011 as per Annexure VII of the Notice of the said Examination.

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

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

7. We have heard learned counsel for the parties and have also perused the material placed on record, including the aforesaid judgment of Apex Court in the case of **Ram Kumar Gijroya** (supra).

8. After giving thoughtful consideration to the rival contentions of the parties, we are not inclined to accept the contentions of learned counsel for the applicant, as the applicant had himself gave an undertaking, as quoted above, and now claiming that his candidature should be considered as an OBC category candidate in respect to the said examination by placing reliance on decisions of Apex Court, High Court as well as of this Tribunal but these decisions are

not applicable to the peculiar facts and circumstances of the present case.

9. It is further relevant to mention that applicant of this OA had himself asked that his candidature to be considered under the UR, i.e., General category, and the respondents have duly considered his candidature under the said category and his result was accordingly declared. Hence, the respondents have acted as per the request of the applicant and non-consideration of his request for re-consideration of his case now as OBC category candidate is found to be correct in the peculiar facts and circumstances of this case. What compelled the applicant to give such an undertaking is not deducible from the pleadings available on record and after that why he has filed this OA has not been explained at all except to say that he seeks benefits of the aforesaid judgments. Hence, in the peculiar circumstances of this case, the relief sought in the OA is found to be an afterthought. Further the result has been declared in the year 2012 itself.

10. In the result and for the foregoing reasons, the instant OA being devoid of merit is dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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