

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

OA No. 060/00944/2017

**Pronounced on : 14.11.2017
Reserved on : 01.11.2017**

**CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MRS.P. GOPINATH, MEMBER(A)**

Bhupender Singh s/o Sh. Baljeet Singh, aged 23 years, r/o Village Pathura, Post Office Suthana, Tehsil Bawal, District Rewari (Haryana).

.....Applicant

BY: **Sh. K.B. Sharma**

VERSUS

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chairman, Railway Recruitment Board, Jammu-Srinagar, Railway Colony (West), Jammu – 180 012.

.....Respondents

BY ADVOCATE: **Sh. R.T.P.S. Tulsi, Senior Panel Counsel alongwith
Sh. Lakhinder Bir Singh**

ORDER

HON'BLE MRS. P. GOPINATH, MEMBER(A):-

1. A Centralized Employment Notice No. 03/2015 on 26.12.2015 (Annexure A-1) was issued inviting online applications for various posts. Applicant applied for the posts listed at Sr. Nos. 2,3,4,6 & 7 and was registered as No. 2171007220. Applicant, though belonging to OBC (Non-Creamy Layer), inadvertently, filled column as OBC (Creamy Layer). Applicant was given an interim relief by the Tribunal to provisionally participate in the document verification and recruitment process. Applicant

qualified in the first stage of examination and was called for the second stage of examination. He was also shortlisted for the third stage of examination. While declaring the result of the 2nd stage of examination, the respondents had notified that if a candidate's score is less than the cut-off marks in the aptitude test, he shall be eliminated from the selection process for the post of Assistant Station Master(ASM)/Traffic Assistant(TA).

2. The applicant had qualified for the post of ASM/TA. The cut-off marks for OBC was 68.444982 and General Category was 74.61197. The applicant's score was 69.25171, which he argues was more than cut-off marks for OBC. But applicant discovered that he did not find a place in the OBC list as he had mentioned his OBC category as "Creamy" and not "Non-Creamy". Applicant argues that this was an inadvertent mistake and he submitted a representation to be allowed to correct his mistake. The applicant lays the blame of mistake on his lack of experience with computers. However, the Bench notes that the examination for which the applicant appeared at the 2nd stage was a computer based examination which he qualified and the examination at the 3rd stage was also a computer based aptitude test. Hence, we find that this is a very weak argument taken up by the applicant to cover his inability to quote his community in a correct manner.

3. The respondent in the reply statement submits that there were certain mandatory conditions in Employment Notice in Annexure A-1 which the candidate failed to highlight and which are as follows:-

"1. Candidates to ensure their eligibility before applying.....If any stage of recruitment or thereafter, it is found that any information furnished by the candidate in his application is false/incorrect or the candidate has suppressed any relevant information or the candidate otherwise does not satisfy the

eligibility criteria for the post(s), his/her candidature will be cancelled forthwith.”

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1A GENERAL INSTRUCTIONS

1B RESERVATIONS

Note-1 : All candidates, irrespective of community may be considered against UR vacancies, subject to fulfilment of parameters for UR candidates. However, against the vacancies earmarked for specific communities (SC/ST/OBC), only candidates belonging to that community will be considered for this purpose SC/ST/OBC candidates should furnish caste certificate from competent authorities as per format given at Annexure I for (SC/ST candidates) and Annexure II (for OBC candidates) at the time of document verification. Further, in case of OBC candidates, the certificate should specifically indicate that the candidate does not belong to the persons/sections (Creamy Layer) mentioned in column 3 of schedule of the Government of India, Department of Personnel and Training O.M. No. 36012/22/93-Estt. Dated 08.09.93 & its subsequent revision through O.M. No. 36033/3/2004-Estt (Res) dated 09.03.2004, and its further revision, if any, received till the closing date of this Centralized Employment Notice” and the certificate produced shall not be older than one year at the time of document verification.”

“5(A)....Steps to submit ONLINE Application : 0.1 to 12.....

“13. Even after final submission if a candidate wishes to make a modification, he/she can do so, but for any such modification additional fee of Rs. 100/- shall be applicable even to the candidates belonging to the exempted categories (i.e. SC/ST/PWD/Ex SM/Woman/Minority/Transgender/Economically Backward Class candidate.” (emphasis provided)

5(B) Verification of original documents and format of certificates:

- (iv) Caste certificate for OBC (note older than one year from the date of document verification) – Annexure – II. (emphasis provided)
- (v) Non creamy layer declaration by OBC candidates – Annexure – III.

6. INVALID APPLICATION

6.6 Incomplete or incorrectly filled application.

“14. MISCELLANEOUS”

“14.2 RRB reserves the right to reject the candidature of any applicant at any stage of the process of recruitment, if any irregularity/deficiency are noticed in the application.”

Thus, the Employment notice had clearly made a provision under para 5(A) 13 for making a modification in the online application by paying a fee of Rs.

100. The applicant, had he been vigilant, could have availed the facility and made a correction in his caste status under this provision. The applicant not having availed this facility provided in the recruitment notice, is before us to seek a relief for change of his caste status from Creamy to Non-Creamy and be considered for appointment as per Non-Creamy Layer cut-off and appointment thereafter.

4. From the instructions produced above, we find that the instructions were very clearly worded, without any ambiguity, and there was a provision also for making corrections in the online applications after its submission. Hence, this is not a case where adequate opportunity was not provided to the applicant. The applicant, however, appears to have failed to use this opportunity so provided. In view of his caste status entry in the application form, the applicant has been considered, under the status indicated by himself in the application form. He is now seeking, a post-declaration of result rectification of his caste status, and a consequent offer of appointment.

5. The denial of the applicant's request would also be on the grounds that the respondent had already made a provision for correction of the entries in the application form and hence a second opportunity should not normally be offered. Such a concession made, would create the precedent of other similarly situated persons seeking a similar benefit. This may make the recruitment process an endless correction process and also eat into the rights of those who had taken care to fill the application properly, and on the basis of their performance, have found a place in the select list rightly so.

6. The applicant was aware through the recruitment notice that he is appearing in a computerized examination and hence his argument of lack of knowledge of computers is not acceptable. Whereas Annexure A2 application form was filed on 10.01.2016, the applicant has belatedly procured the OBC certificate on 15.03.2017, almost a year thereafter, after the declaration of the 2nd stage examination results. Whereas the respondents have provided the opportunity for correction of errors to be made in the application form submitted, upto the closing date for receipt of applications, there was no provision for the relief being sought of for corrections to be made after the final submission of the application form or after participating in the recruitment process . Such an opportunity given to the applicant would be violative of Articles 14 & 16 of the Constitution as such an opportunity is denied to others similarly placed and the advertisement for the post did not provide for such a provision of correction post-closing date of receipt of application form. This was held by the Apex Court in **Bedanga Talukdar Vs. Saifudaullah Khan and Others: AIR 2012 SC 1803.** The Apex Court in **UOI & Anr. Vs. Sarwan Ram & Anr.** In Civil Appeal No. 9388 of 2014 (SLP (C) No. 706 of 2014 decided on 08.10.2014 had held that it is not open to the courts to sit in appeal over the scrutiny of applications submitted by applicants. Further, under Article 226 of the Constitution of India, the High Court in that case was not competent to scrutinize the application filed for appointment and substitute its own opinion based on some evidence to come to a conclusion as to whether the application is defective or otherwise.

7. For the reasons stated above, this OA turns out to be devoid of merits and is accordingly dismissed. No costs.

**(P. GOPINATH)
MEMBER (A)**

**(SANJEEV KAUSHIK)
MEMBER (J)**

Dated:
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