

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No.322/2012

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Reserved on:29.11.2018

Pronounced on:19.12.2018

Hon'ble Mr. Suresh Kumar Monga, Member (J)
Hon'ble Mr. A. Mukhopadhaya, Member (A)

Premjit Kumar Son of Shri Basant Prasad by caste OBC aged about 23 years R/o Vill. Berivanwas, Post Azamgarh, PS-Roshanganj, District Gaya (Bihar)-824217.

...Applicant.

(By Advocate: Shri Rakesh Kumar Sharma)

Versus

1. Union of India through Secretary, Ministry of Railways, Rail Bhawan, New Delhi-110017.
2. The Chairman, Railway Recruitment Board, Ajmer, 2010, Nehru Marg, Near Ambedkar Circle, Ajmer-305028, Rajasthan.

...Respondents.

(By Advocate: Shri Anupam Agarwal)

ORDER

Per: A.Mukhopadhaya, Member (A):

Briefly, the facts of this Original Application, (OA), are that the applicant applied for the post of Assistant Loco Pilot against OBC vacancies advertised vide Centralised Employment Notification, (CEN), No.01/2010 of the Ministry of Railways; (Annexure A/3). Thereafter, he appeared for the examination for the same and was called for document verification on 05.10.2011 by the respondents. In the meanwhile, the applicant came to

(2)

learn that the caste, (OBC), certificate that he had submitted with his original application was not issued by competent authority and therefore he arranged to have the same issued by Anumandal Adhikari, (competent authority for the Central Government), on 08.09.2011 and submitted this to the respondents at the time of document verification on 05.10.2011. However, vide impugned order dated 20.04.2012, (Annexure A/1), he was informed that since the OBC certificate appended by him with his original application was issued by the Anchal Adhikari, Bankey Bazar, (Gaya), who was not a competent authority for this, his candidature had been considered ineligible and had therefore been rejected. The applicant further contends that on the date of document verification itself, i.e., on 05.10.2011, he had submitted a representation to the respondents stating that he had submitted a copy of the OBC certificate issued by the competent authority at the time of document verification itself and that this should be given due consideration. However, this representation did not bear fruit. The applicant states that since the defect in his application was attended to and cured before the process of medical examination was to be initiated, there was no reason whatsoever for the respondents to deny and exclude him from further formal process of selection which remained limited to his passing the medical examination prescribed only. Aggrieved by this, he has sought

(3)

the following relief from this Tribunal:

Relief:-

- (i) By an appropriate order or direction the order dated 20.04.2012 Annexure-1 be declared as null and void and be quashed and set aside and the respondents be directed to select the applicant against Assistant Loco Pilot OBC reserved post & issue appointment thereof and give all benefits to the applicant from the same date as has been given to other candidates including less meritorious candidates;
- (ii) By an appropriate order or direction the respondents may be directed to appoint the applicant as Assistant Loco Pilot with all consequential benefits ignoring their order Annexure A/1.
- (iii) Any other order deem fit and proper may be passed in favour of the applicant and cost may also be awarded in favour of the applicant.

Interim relief:-

During the pendency of the OA one post of Assistant Loco Pilot OBC post be kept vacant for the applicant and further the respondents be directed to provisionally permit the applicant for medical examination to be conducted from May 2012 3rd week onwards.

2. In reply, the respondents confirmed that vide CEN No.01/2009 published by the RRB Ajmer on 25.04.2009, applications were sought for filling up vacant posts of Assistant Loco Pilot, Category No.1 along with other posts and the closing date for submission of applications was 25.05.2009 upto 17.10 hours. Since this recruitment process could not be completed, another CEN No.01/2010 was published on 30.01.2010 by the RRB, Ajmer for recruitment to these posts of Assistant Loco Pilot with a closing

(4)

date of 02.03.2010 upto 17.30 hours. As per specific instructions in the aforementioned advertisements, it was for the candidates to ensure that they fulfilled all the eligibility norms at the time of filing their applications. The terms and conditions set out in the advertisements stated that the RRB may reject the application of any candidate at any stage of the recruitment process in case the candidate did not fulfil the requisite criteria and further, that such candidates, even if appointed, would be liable to be removed from service summarily. The respondents state that as far as OBC candidates are concerned, they were required to enclose a self declaration of non creamy layer status in the given proforma and it was specifically made clear that the candidates who indicated their community as SC or ST or OBC in their application form but did not enclose their caste certificate in the prescribed format would not be considered eligible. The call and permission letters issued to candidates for the selection process were in no way indicative that RRB Ajmer had otherwise satisfied itself with the details and documents of the candidate and in no way entitled the candidate for any appointment; rather, incomplete application forms were liable to be rejected summarily at any stage during the recruitment process. The respondents further contend that the submission of an OBC certificate signed by the Anchal Adhikari, Gaya and countersigned by the Anumandal Adhikari, Sherghati, Gaya to the respondents on 05.10.2011 cannot cure the deficiency in the application form and confer eligibility on the

(5)

applicant since he did not fulfil the requisite eligibility criteria on the date of submission of application form and on the date of closing of the applications in question, he was consequently lawfully declared ineligible for the same.

3. Learned counsels for the parties were heard and the material available on record was perused. Learned counsel for the applicant, apart from reiterating his earlier submissions cited the case of **Ram Kumar Gijroya vs. Delhi Subordinate Services Selection Board and Another** (2016) 4 SCC 754 and the judgment of the Delhi High Court in **Ms. Pushpa vs. Government of NCT of Delhi & Others** decided on 11.02.2009 and asserted that in this case also the authenticity of the certificate in question was not under challenge. Mere late submission of the same therefore could not be considered to be a valid ground for rejection of the applicant's candidature.

4. Per contra, learned counsel for the respondents, while reiterating the submissions made in the reply to the OA drew attention to the case of **T. Jayakumar v. A Gopu**, (2008) 9 SCC 403 at page 406 in which it has been held by the Apex Court that there is no law under which once a candidate is allowed participation in the selection process, the selection authority is precluded from examining whether his application was

(6)

“complete, in order, within time or otherwise acceptable”, and that **“the principle of estoppel has no application in such a case”**; (para 10 of the judgment refers). *Inter alia*, the court has also observed, (para 11 of the same judgment refers), that where a completed application is submitted beyond time with supporting documents, even if considered complete and authentic, while this can be treated as **“part and parcel”** of an earlier incomplete application by departmental appellate authority, if there is one, rejection of such an application lies beyond the scope of judicial review.

5. The material placed on record as well as the arguments of opposing counsel have been considered. What is undisputed in this case is that the applicant did not produce an OBC certificate duly signed by the competent authority as specified in the relevant employment advertisement itself, at the time of submission of his application and within the stipulated time limit for such submission. The question that essentially arises in this case is whether, in such a situation, subsequent submission of such supporting documents, i.e. the OBC certificate or any other documents, can be allowed, on reconsideration, as a ground for the acceptance of such an application.

(7)

6. In **Tej Pal Singh & Ors. Vs. Govt. of NCT of Delhi** [120 (2005) DLT 117], the Delhi High Court has taken a view that candidates who belong to the SC and ST categories but could not file a certificate in proof of the same in time before the close of applications cannot be rejected only on account of late submission as the **"certificate issued by competent authority to this effect is only an affirmation of fact which is already in existence."** In the case of **Ms. Pushpa vs. Government of NCT of Delhi & Others**, (cited by the applicant), which related to late submission of an OBC certificate, in its order dated 11.02.2009, the Delhi High Court has reiterated that provided such certificate reached the competent authority **"prior to their making provisional selection"**, then it should not be rejected on account of late submission alone. In this case, the Delhi High Court does make this proviso based on the rationale that the competent authority in question which **"verifies and satisfies itself with authenticity of documents and eligibility as per recruitment rules"** does so **"while making provisional selection"**.

7. Conversely, in the case of **T. Jayakumar v. A Gopu**, (2008) 9 SCC 403 at page 406, (cited by the respondents), it has been held by the Apex Court that there is no law under which once a candidate is allowed participation in the selection process, the selection authority is precluded from examining whether his

(8)

application was "**complete, in order, within time or otherwise acceptable**", and that "**the principle of estoppel has no application in such a case**"; (para 10 of the judgment refers). *Inter alia*, the court has also observed, (para 11 of the same judgment refers), that where a completed application is submitted beyond time with supporting documents, even if considered complete and authentic, while this can be treated as "**part and parcel**" of an earlier incomplete application by departmental appellate authority, if there is one, rejection of such an application lies beyond the scope of judicial review.

8. In this case, it is undisputed that the applicant submitted his OBC certificate duly signed/countersigned by competent authority not only after last date for close of applications but only at the time of verification of documents which is a post provisional selection event and therefore, submission of this certificate at this stage, even an authentic one, cannot be covered under the terms of Delhi High Court judgment in the case of Ms. Pushpa (*supra*) wherein it has been laid down that such certificates should not be rejected on account of late submission alone where they are submitted to the competent authority "**prior to their making provisional selection**". Here, since the certificate was admittedly produced only after provisional selection had been completed and successful candidates had been called for verification of their documents, the principle laid down in the case

(9)

of Ms.Pushpa (supra) very clearly cannot be applicable in this case.

9. In the result, the inescapable conclusion that arises is that because the OBC certificate submitted by the applicant at the post provisional selection stage during the process of verification of documents, even if authentic, was submitted beyond the time allowed for such submission in terms of the judgment of the Delhi High Court in the case of Ms.Pushpa, (supra), non-acceptance of this late submission by the respondent authority is not, as per the principle laid down by the Apex Court in the case of T. Jayakumar vs. A. Gopu, (supra), within the scope of judicial review. Consequently, this OA fails for want of merit and is dismissed.

10. There will be no order on costs.

(A.Mukhopadhaya)
Member (A)

(Suresh Kumar Monga)
Member (J)

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