

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

O.A. No.677 of 2017

Orders reserved on : 12.03.2019

Orders pronounced on : 19.03.2019

Hon'ble Ms. Nita Chowdhury, Member (A)

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

Vikas Yadav
S/o Sh. Subhash Yadav,
R/o Village Jera, Post Eka,
Tehsil Jasrana, Dist. Firozabad,
UP-283152.

(Aged about 24 years)

(Candidate towards CGLE-2016)

....Applicant

(By Advocate : Shri Jatin Parashar for Shri Ajesh Luthra)

VERSUS

1. Staff Selection Commission,
Through its Chairman (Head Quarter),
Block No.12, CGO Complex,
Lodhi Road, New Delhi-110504.

.....Respondent

(By Advocate : Shri Manish Kumar)

O R D E R

Ms. Nita Chowdhury, Member (A):

Heard learned counsel for the parties.

2. By filing this OA, the applicant is seeking the following reliefs:-

- “a) Direct the respondents/SSC to make necessary rectification in its records and treat the applicant as OBC-HH candidate instead of OBC only towards CGLE-2016 examination and

- b) Further consider the applicant for purposes of selection and appointment in pursuance to CGLE-2016 in accordance with his merit position.
- c) Accord all consequential benefits.
- d) Award costs of the proceedings; and
- e) Pass any order/relief/direction(s) as this Hon'ble Tribunal may deem fit and proper in the interests of justice in favour of the applicant."

3. Counsel for the applicant submitted that applicant applied for CGLE-2016 as OBC-HH category candidate. However, when the applicant received admit card mentioning his category as OBC, he has submitted his application on 27.8.2016 (Annexure A/4) requesting the SSC to change his category from OBC to OBC-HH for further examination. However, no response was given to the aforesaid request of the applicant. Therefore, the applicant has approached this Tribunal for seeking the reliefs as mentioned above.

3.1 Counsel further submitted that presumingly the applicant had committed a mistake while filling up his application form and might have wrongly mentioned his category as only OBC yet since he has been representing the authorities for making necessary corrections, the applicant is entitled to the necessary change in his particulars.

4. On the other hand, learned counsel for the respondent submitted that in the advertisement of Combined Graduation Level Examination, 2016 itself, it was clearly provided as under:

“14. Request for change/correction in any particulars in the Application Form shall not be entertained under any circumstances. The Staff Selection Commission will not be responsible for any consequences arising out of non acceptance of any correction/addition/deletion in any particular filled in application form whatever the reasons may be.”

4.1 Counsel for the respondent submitted that applications for the said examination were filled in by the candidates online. By referring to the copy of the online application of the applicant at page 87 of the paperbook, learned counsel submitted that since the applicant has filled his category as OBC only and as such his candidature has been considered as OBC category candidate only and there is no scope of any change subsequently as clearly provided in the advertisement, a copy of complete advertisement of the said examination has also been annexed by the applicant with the OA, especially Annexure-II B at page 41-42 is relevant to the issue involved in this case.

4.2 Counsel for the respondent further submitted that if the applicant belongs to OBC+HH category, he should have duly filled this information in his online application form. Since from the application form filled in by the applicant, it is clear that he has filled in his category as OBC only and not as OBC-HH. According respondent processed the candidature of the applicant under OBC category and not as OBC+HH and when there are no instructions and provisions for allowing any change/correction in any particulars in the application

form subsequently, therefore, the request made by the applicant was not entertained by the respondent. The applicant has not been able to show any illegality in the action of the respondents.

5. After hearing learned counsel for the parties and perusing the material placed on record, we have raised a query to learned counsel that the only point for consideration in this case itself is whether the applicant, who had originally applied as an OBC Category, is entitled to change her category into OBC-HH. Counsel for the applicant was not able to give any plausible explanation or reasons in support of the claim of the applicant by referring to any rule/instructions on the subject. It is pertinent to mention that similar issue had already been settled by the Hon'ble Supreme Court in the case of ***Union of India and others vs. Dalbir Singh & another*** in Civil Appeal No.3409/2009 vide judgment dated 9.5.2009, the relevant portion of the said judgment reads as under:-

“10....In our opinion, having opted to consider his case only under OBC category, he cannot thereafter claim that his case requires to be considered in the general merit, only because, he has scored better percentage of marks than the last selected candidate in the general merit. In our considered view, the Administrative Tribunal having found that the appellants were justified in not considering the respondent's case for appointment under OBC category, ought not to have directed the appellants to consider his claim under general category.”

6. Since the Hon'ble Supreme Court in the aforesaid case has categorically held that a candidate having opted to consider his/her case under a particular category, he/she cannot thereafter claim that his/her case requires to be considered in other category merit, only because he/she scored better percentage of marks than the last selected candidate in other category. Hence, in view of the Hon'ble Supreme Court judgment above, we do not find any merit in the claim of the applicant and, therefore, we dismiss this OA being devoid of merit. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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