

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.1403/2019

Monday, this the 6th day of May 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Mohd. Sohail, age 29 years, s/o Mohd. Tahir
Designation Labour Enforcement Officer
Group A
r/o 31/102, Jeen Khana
Chatta Bazar, Agra
Uttar Pradesh 282004

..Applicant

(Mr. S D Khushwaha, Advocate)

Versus

Union Public Service Commission
(Santh Lok Seva Ayog)
Through its under Secretary
Dholpur House, Shahjhan Road
New Delhi

..Respondent

(Mr. Shanker, Advocate for R V Sinha, Advocate)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The Union Public Service Commission issued a notification in 25.03.2017 inviting applications for various posts, including that of Labour Enforcement Officer (Central – 3 vacancies). The applicant responded to the same and submitted application on 31.03.2017. He claimed the status of OBC but mentioned that he is in creamy layer.

2. The written test was conducted on 25.11.2017 and the applicant was declared qualified therein. The interview was conducted on 20.07.2018. However, on the next day, i.e., 21.07.2018, the applicant addressed a letter stating that in the course of verification of certificates, he came to know that he wrongly mentioned in the application form that he belongs to creamy layer, but, in fact, he belongs to non-creamy layer. Therefore, he requested to consider his candidature as an OBC (non-creamy layer). Through a communication dated 23.08.2018, the respondent informed the applicant that his request cannot be acceded to. The same is challenged in this O.A. Prayer is also made to direct the respondent to consider the applicant as an OBC (non-creamy layer) for the post of Labour Enforcement Officer (Central).

3. We heard Mr. S D Kushwaha, learned counsel for applicant, at the stage of admission.

4. The notification was issued in respect of several posts and the applicant responded as regards the post of Labour Enforcement Officer (Central). The application form was required to be submitted online. The column pertaining to creamy layer reads as under:-

“Community Subcaste/ State/ Creamy Layer”

and the applicant filled the same as under:-

“Chikwa, Qassab, (Qureshi), Kasai/Qassai, Chak, / (Uttar Pradesh) / Yes”

5. A specific mention is made in the notification, as to the manner in which the information as regards creamy layer must be furnished. It reads as under:-

“6. (f) A declaration in the prescribed format by candidate seeking reservation as OBC, that he/she does not belong to the creamy layer on the crucial date, in addition to the community certificate (OBC). Unless specified otherwise, the prescribed closing date for receipt of Online Recruitment Application for the post is to be treated as crucial date.”

6. It is also important to note that almost a semblance of caution was administered to the applicant by incorporating the following paragraph in the application form. It reads as under:-

“Candidates are warned that they should not furnish any particulars that are false or suppress any material information in filling up the application form. Candidates are also warned that they should in no case correct or alter or otherwise tampered with any entry in a document or its attested/certified copy submitted by them nor should they submit a tempered/fabricated document. If there is any inaccuracy or any discrepancy between two or more such documents or their attested/certified copies, an explanation regarding this discrepancy should be submitted.”

7. The candidate belonging to creamy layer is expected to fill the application with full knowledge. For all practical purposes, his statement was taken on its face value and it is only on subsequent stage that the necessity may arise to make a further

examination. The applicant made a voluntary statement that he belongs to creamy layer.

8. In case it was an accidental slip, the applicant was expected to make the amends, with no loss of time. He waited till the written examination was conducted and even participated in the interview. Almost at the conclusion of the entire process, the applicant made a representation, which reads:-

“This is to inform you that I applied for the post of “labour Enforcement Officer” (Central) vide Advt. No.06/2017 dated 25-3-2017, vacancy No 17030608425. As per the recruitment process I qualified written exam held on 25-11-2017 and attended Interview on 20-07-2018. During the documents verification on very same day, I came to know that any how by mistake I filled the form as OBC (creamy layer) instead of OBC (non creamy layer).

It is most humbly requested to your goodself, kindly consider my candidature as OBC (non creamy layer) as I belonged to.”

9. This was responded to by the concerned competent authority through a communication dated 23.08.2018, which reads:

“I am directed to refer to your representation dated 21.07.2018 in respect of the subject recruitment case and to say that your request for change of community, cannot be acceded to by the Commission.”

10. The applicant is not able to point out any provision, which enables him to get the entry changed. In the selection,

thousands of candidates participate. A huge exercise was undertaken to select the candidates. Vertical and horizontal reservations are to be worked out based upon the categories to which the candidates belong, and the marks, which they secured in the written test and interview. At this stage, the applicant cannot turn around and claim a different social status altogether.

11. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 6, 2019
/sunil/