

IN THE HIGH COURT OF DELHI AT NEW DELHI**+ W.P.(C) 1656/2011 and CM No.3516/2011**

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Date of decision: 12th October, 2012**KRISHAN KUMAR**

..... Petitioner

Through : Ms. Jyoti Singh, Sr. Adv.
with Mr. Amandeep Joshi
and Mr. Dinesh Yadav,
Advts.

versus

UNION OF INDIA & ORS

..... Respondents

Through : Ms. Barkha Babbar, Adv.
for R-1.
Mr. S.M. Arif, Adv. for R-3.**CORAM:****HON'BLE MS. JUSTICE GITA MITTAL****HON'BLE MR. JUSTICE J.R. MIDHA****GITA MITTAL, J. (Oral)****W.P.(C) 1656/2011**

1. The instant writ petition has been filed by the petitioner challenging his non-selection to the post of Sub-Inspector in the Central Police Organization Examination held in the year 2010.
2. The petitioner contends that he was recruited as a Constable/GD in the CRPF on 5th April, 2003 as an OBC candidate and has been continuously serving in the organization. Pursuant to an advertisement issued in 2010, the petitioner applied for selection to the post of Sub-Inspector in Central Police Organization as an OBC candidate. The petitioner is stated to have qualified the Tier-I examination as well as the Tier-II examination conducted by the

Staff Selection Commission as he met the requirements prescribed for OBC candidates. The petitioner also underwent the physical examination test. In the interview which was held on 13th December, 2010, the petitioner had produced an OBC certificate which had been issued in the year, 2000.

3. Our attention has been drawn to the requirement which was duly notified in the advertisement so far as the production of OBC certificate is concerned. The relevant portion of the same is reproduced below:-

**“5(C) : PROCESS OF CERTIFICATION AND
FORMAT OF CERTIFICATES:**

Candidates who wish to be considered against vacancies reserved/or seek age-relaxation must submit requisite certificate from the competent authority, in the prescribed format when such certificates are sought by concerned Regional/Sub Regional Offices after declaration of result of Tier-I examination otherwise, their claim for SC/ST/OBC/PH/ExS status will not be entertained and their candidature/applications will be considered under General (UR) category. The formats of the certificates are annexed. Candidates claiming OBC status may note that certificate on creamy layer status should have been obtained within three years before the closing date i.e. 02.03.2010.

NOTE I: The closing date i.e. 02.03.2010 for receipt of application will be treated as the date of reckoning for OBC status of the candidate.”

Admittedly, the petitioner had not produced such a certificate.

4. In this background, the petitioner's case, therefore, could not be considered for recruitment as an OBC candidate. The petitioner agreed that he be considered as a general category candidate. In this regard, the respondents have placed on record the undertaking dated 3rd December, 2010 submitted by the petitioner wherein it was specifically undertaken by the petitioner that though he had applied and qualified written part of the examination in the OBC category but he could not furnish the OBC certificate in the prescribed proforma in terms of the requirement of the respondents. The petitioner, therefore, gave an undertaking and requested that his category be treated as unreserved and he would not claim for OBC status in future. We may note that the petitioner also undertook that the decision taken by the commission regarding his candidature will be acceptable to him.

This undertaking was never withdrawn and binds the petitioner even on date.

5. It appears that the Staff Selection Commission had also prescribed minimum qualifying marks. So far as the candidates in the unreserved category are concerned, minimum 100 marks were prescribed as a cut-off for the Tier-I examination. As against this, the commission had prescribed 94 marks as cut-off marks for OBC category candidates.

6. The respondents have placed the petitioner's results of the Tier-I examination and it appears that the petitioner had secured 98 marks only.

7. In this background, the petitioner had failed to meet the cut-off in the Tier-I examination.

8. It is urged by Ms. Jyoti Singh, learned senior counsel appearing for the petitioner that the total of Tier-I and Tier-II marks indicates that the petitioner has obtained more than the candidate who had last qualified in the unreserved category.

9. Unfortunately, this position does not help the petitioner. As noticed above, even he was able to take the Tier-II examination only because he met the cut-off in the OBC category. If the petitioner's result in the Tier-I examination had been scrutinized as an unreserved category candidate, he would have failed to meet the cut-off marks in the unreserved category.

10. In this background, no relief can be granted to the petitioner. The challenge is devoid of merit. This writ petition is dismissed.

CM No.3516/2011

In view of the orders passed in the writ petition, this application does not survive for adjudication and, therefore, hereby dismissed.

GITA MITTAL, J

J.R. MIDHA, J

OCTOBER 12, 2012/aj