

Court No. - 34

Case :- WRIT - A No. - 20589 of 2019

Petitioner :- Shrikant

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Devesh Mishra, Hira Lal Yadav, Sunil Kumar

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar, J.

1. Heard learned counsel for the respective parties and perused the record.

2. Petitioner who was applicant for the post of Police Constable and Constable PAC (Male) Direct Recruitment, 2015, was non suited at the time of physical verification of documents on the ground that he produced two caste certificates of 2014 and 2016 in the OBC category. While the 2014 caste certificate was out of scope of consideration in lieu of dates given in the advertisement for the candidate to produce relevant certificates, in respect of 2016 caste certificate, there was no dispute and resultantly no issue.

3. This controversy of cancellation of candidature of such candidate on pick and choose basis, for only producing two caste certificates as to one of which not being necessary could have been ignored or rejected, traveled to this Court in Writ-A No.12497 of 2019 (Sateesh Kumar Yadav vs. State of UP & ors) which was allowed by vide order dated 30.09.2019 with the direction to the respondents to consider the petitioner's claim for employment in OBC category and his candidature would not overlooked only on the ground he does not possession OBC category.

4. It has come to be pleaded that entire application form, required to be submitted by the petitioner, carried all the requisite certificates including the caste certificate of 2016. Paragraph-'39' of the writ petition has not been denied in paragraph-'8' of the counter affidavit, sworn by Anil Kumar who was then posted as Deputy Superintendent of Police, Police Recruitment and Promotion Board, UP Lucknow. The only averments have come in paragraph-'8' that reply has already been given in the preceding paragraphs of this counter affidavit which are being reiterated.

There is no denial in the preceding paragraphs of the counter affidavit that petitioner's application form did not accompany the requisite documents, nor there is any denial regarding his presenting requisite documents at the time of physical verification of documents.

5. Petitioner since has secured 399.20 marks which is above the last cut-off of 396 marks for the OBC candidate, the petitioner has definitely made out a caste to be accorded due consideration for the purposes of appointment as Constable in OBC category in Civil Police/PAC in light of the judgment of the this Court in passed in Writ-A No.12497 of 2019.

6. Accordingly, petition succeeds and is allowed. Direction is issued to the respondent to consider the petitioner's claim for appointment under the OBC category against the post of Constable in Civil Police/ PAC in OBC category, if otherwise there is no legal impediment. Question of caste certificate will be no more *res integra*. The appropriate order shall be passed by the competent authority in the matter within thirty days from the date of presentation of certified copy of this order.

Order Date :- 17.10.2023

P Kesari