

Court No. - 8

Case :- WRIT - A No. - 27004 of 2021

Petitioner :- Ajeet Kumar Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Ayush Lko. And Ors.

Counsel for Petitioner :- Jayshanker Shukla, Anand Mani

Tripathi, Naveen Shukla, Praveen Kumar Tiwari

Counsel for Respondent :- C.S.C., Gaurav Mehrotra, Hari Om

Pandey, Jogendra Nath Verma, Rajat Sharma, Savitra Vardhan Singh, Vinay Misra, Vishnu Kumar Mishra

Hon'ble Dinesh Kumar Singh, J.

1. Heard Sri Jay Shanker Shukla, learned counsel for the petitioner as well as Sri Sandeep Chandra, learned Standing Counsel, Sri H.N. Singh, learned Senior Advocate, assisted by Sri Vishnu Mishra, for the private opposite parties/selected candidates, S/Sri Joginder Verma and Utsav Misra for U.P. Subordinate Service Selection Commission and Sri A.M. Tripathi, assisted by Sri Sri Anurag Tripathi, for the selected candidates.

2. The present writ petition under Article 226 of the Constitution of India has been filed impugning the result of the examination held for the post of Homeopathic Pharmacist vide notice dated 2.11.2021 in pursuance to Advertisement No.2 of 2019, for which the last date for submission of the application forms was 18.3.2019 and for correction in the application form, the last date was 25.3.2019.

3. In the advertisement, it was provided that 10% posts shall be reserved for Economically Weaker Section candidates in accordance with the Office Memorandum dated 18.2.2019, which provides that 10% reservation shall be applicable to the candidates of the category, who are not covered under the reservation given to Scheduled Caste, Scheduled Tribe and

Other Backward Class. The family income of such candidate should be less than Rs.8,00,000/- from all sources. The said income should be considered of previous year of the year, in which the applications are invited.

4. In the present case, the applications were invited in the year 2019, for which the last date was of 18.3.2019. Therefore, the certificate ought to have been issued before 18.3.2019, i.e. the certificate of the income should be of the Financial Year 2017-2018. In the present case, the certificate submitted by the petitioner is dated 9.3.2018, which is of the Financial Year 2019-2020.

5. A coordinate Bench of this Court at Allahabad in ***Writ-A No.17095 of 2021, Bhujang Bhushan Dubey and 12 others Vs. State of Uttar Pradesh and others, along with other connected writ petitions, decided on 22.11.2022***, after considering the Government Order dated 18.2.2019 has held that once the petitioners in those cases do not file the requisite certificate of income before the cut off date i.e. 18.3.2019, they could not have been considered giving benefit of reservation under 10% quota meant for Economically Weaker Section as the said certificate was not a valid certificate.

6. Further, a Division Bench of this Court in ***Special Appeal No.839 of 2022, Ved Prakash Singh and 3 others Vs. State of U.P. and 2 others, decided on 1.5.2023***, has specifically held that certificate should be of Financial Year 2017-2018, but a certificate which was issued for the Financial Year 2019-2020 would not be a valid certificate to claim reservation for Economically Weaker Section candidates. The relevant observations of the Division Bench are extracted herein under:-

"By means of the supplementary affidavit, three applications allegedly filed by the appellant nos. 1, 2 and 4 have been brought on record as Annexures S.A.-2, S.A.-3 and S.A.-4. Copy of the application filed by the

appellant no. 1, Ved Prakash Singh dated 26.02.2019 is appended at page '12' of the affidavit filed today wherein a prayer was made for issuance of EWS certificate in view of the Government Order dated 18.02.2019. The enclosures appended to the said application as described therein indicates that the bank statement of the appellant no. 1, Ved Prakash Singh from 01.04.2017 to 31.03.2018 had only been filed along with an affidavit stating therein that income of his family was less than eight lacs and his family did not own any asset. It is, thus, evident that he did not furnish any detail of his family. Even the names of family members of the appellant have been disclosed therein. Moreover, the claim of the appellant no. 1 that certificate of EWS category was issued to him pursuant to the application dated 26.02.2019, which is appended at page '180' of the paper book, is irrelevant, in as much as, the said certificate pertains to the financial year 2019-2020. The relevant financial year for the selection in question is 2017-2018. The appellant no. 1 has not been able to furnish the proof of having applied with necessary documents to obtain the certificate for EWS category, in the prescribed format for the financial year 2017-2018.

As regards appellant no. 2, Anand Kumar Shahi, he claims to have applied for issuance of EWS certificate vide application dated 09.03.2019 which is appended at page '18' of the affidavit filed today. A perusal of the said application indicates that no document has been appended by the appellant no. 2 about the income of his family nor there is any detail therein. It seems that a certificate of EWS category dated 30.07.2019 had been issued to appellant no. 2 herein for the financial year 2017-2018, which is appended at page '183' of the paper book. The validity of the said certificate is doubtful, in as much as it is mentioned therein that the same is valid for the year 2019-2020. As stated in the said certificate, it was impossible, as the appellant no. 2 himself had applied for issuance of the certificate on 09.03.2019. The certificate certifying the income of his family from 01.04.2019 till 31.03.2019, the period applicable to the financial year 2019-2020, could not have been issued to him. Even otherwise, we find discrepancy in the certificate appended with respect to the appellant no. 2. The certificate appended at page '183' of the paper book does not appear to have been issued on the prescribed format as per the Government Order dated 14.03.2019.”

7. In view thereof, I do not find that the certificate submitted by the petitioner was as per the requirement of the relevant Government Order dated 18.2.2019 inasmuch as the certificate is for the Financial Year 2019-2020 and not for the Financial Year 2018-2019. Therefore, the petitioner was rightly not given the benefit of the reservation under 10% quota for the Economically Weaker Section.

8. Thus, the present writ petition being devoid of merit and substance, is **dismissed**. Interim order, if any, stands vacated.

Order Date :- 19.5.2023

Rao/-