

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 28039 of 2013

DATE OF DECISION: 30.03.2015

Aarti Rani

.....Petitioner

Versus

Chandigarh Administration and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present:- Mr. J.S. Lalli, Advocate
for the petitioner.

Mr. IPS Doabia, Advocate
for the respondents.

DAYA CHAUDHARY, J.

The present writ petition has been filed for issuance of a writ in the nature of mandamus directing respondents No.1 to 3 to consider and appoint the petitioner as JBT teacher in the category of OBC on contract basis as he belongs to 'Gadderia' caste, which comes in the category of 'Other Backward Class'. A further prayer has also been made for setting aside the appointment of respondent No.5 as the petitioner stood higher in merit.

Briefly, the facts of the case are that applications were invited by respondent No.2 from eligible candidates for filling up 654 posts of JBT teachers on contract basis at a fixed remuneration of ₹ 16,000/- per month.

Out of total 654 posts, 166 posts were reserved for OBC category. The last date for submission of applications online was 3.10.2012. The petitioner applied for the post of JBT teacher in the category of OBC on the basis of certificate issued by SDM (South), Chandigarh. The name of the petitioner was put in the list of OBC category at Sr. No. 96. At the time of physical verification of original documents, an objection was raised by respondents No. 1 to 3 that the certificate produced by the petitioner was not valid as there was spelling mistake. In spite of making representation by the petitioner, his request was not accepted on the ground that 'Gadderia' and 'Gaddaria' are two different castes and petitioner cannot claim benefit. The petitioner also submitted copy of notification dated 27.6.1995 issued by Chandigarh Administration where both 'Gadderia' and 'Gaddaria' have been mentioned at Serial No. 37 against category of OBC.

By rejecting the claim of the petitioner, respondent No. 5 who has scored 61.4663 marks and has got 166th rank was selected by the respondents and the petitioner who has scored 66.2833 marks and has got 96th rank was not selected. The petitioner sought information under RTI from Social Welfare Department, Chandigarh regarding validity of OBC certificate of Gadderia issued to the petitioner by the Administration. An information was also sought about difference between Gadderia and Gaddaria. In response to information sought by the petitioner, it was intimated that the benefit of reservation would be extended on the pattern of Central Government, wherein, in the list of OBC, Gadderia has been mentioned. Thereafter the petitioner made a representation to respondents No.1 to 3 stating therein that both the castes are the same and there is difference of only spelling, which may be a mistake. In spite of said representation, no action was taken by the respondent-Department and thereafter a legal notice was served upon the Secretary Education,

Chandigarh Administration but the same was not accepted and respondent No.5 inspite of being lower in merit was appointed. The petitioner came to know that certain posts are lying vacant and respondents No.1 to 3 are trying to operate the waiting list by giving appointment letters to them. He again made a representation to the respondent-Department but the same was also not considered.

Learned counsel for the petitioner contends that the case of the petitioner is squarely covered by decision in C.W.P. No. 26092 of 2012 decided on 25.10.2013 (**Rajbir Singh and another Vs. Chandigarh Administration and others**), wherein also, the issue was the same and two different spellings of a caste were mentioned in the list of OBC. The said writ petition was allowed in view of order passed in C.W.P. No. 12570 of 2013 decided on 31.5.2013. Learned counsel also submits that some posts are still lying vacant and the case of the petitioner can be considered against those vacant posts of JBT teacher in the category of OBC.

Reply on behalf of the respondents has already been filed and the same is on record. The Case was adjourned on the last date of hearing on the request made by learned counsel for UT, Chandigarh to get instructions with regard to vacant posts. Learned counsel for U.T., Chandigarh submits that at present eight posts are lying vacant in the category of OBC.

Admittedly, the petitioner applied in category of OBC by mentioning his caste as 'Gadderia'. In the merit list, the petitioner was placed at Sr. No. 96 but at the time of verification of the documents, his claim for appointment was rejected only on the ground that the spellings of Gadderia are different from Gaddaria as has been mentioned in the list. It is also not disputed that a candidate lower in merit to the petitioner has been considered and has also been appointed. The caste of petitioner i.e.

Gadderia and word Gaddaria are reflected at Sr. No. 24 of Central list of OBC. Chandigarh Administration, Department of Personnel has also issued instructions vide their letter No. 27/4/94-IH(7)/2003/23827 dated 23.12.2003 regarding the benefit of reservation for SC/ST/OBC in civil services under the Chandigarh Administration, wherein, it has been mentioned that benefit of reservation to these categories would be extended on the pattern of Central Government. Even in the information supplied under RTI, it has been mentioned that both Gadderia and Gaddaria are the same castes. The certificate issued by U.T., Chandigarh has not been disputed by learned counsel for U.T., Chandigarh and said certificate has been issued in accordance with Central list of OBC for U.T., Chandigarh Administration, Chandigarh.

Under similar circumstances, writ petition i.e. C.W.P. No. 26092 of 2012 filed by two candidates was allowed on 25.10.2013, wherein, difference of spellings was there in caste Nai against entry at Sr. No. 19. In that case a direction was issued to consider the case of the petitioners for appointment based on the caste certificate of the OBC furnished by the candidates in support of their candidature.

Accordingly, the present petition is allowed and respondents No.1 to 3 are directed to consider the case of the petitioner for appointment on the post of JBT teacher on contract basis against vacant posts within a period of two months.

March 30, 2015
pooja

(DAYA CHAUDHARY)
JUDGE

