

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5958 of 2015 (O&M)

Date of Decision:- 23.07.2015.

Comptroller and Auditor General of India and others

.....Petitioners

Versus

CAT, Chandigarh Bench and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Barjesh Mittal, Advocate for the petitioners.

Mr. R.S. Thakur, Advocate for respondent No.2.

SURYA KANT, J. (ORAL)

1.) The Comptroller and Auditor General of India and other Authorities have through this writ petition challenged the order dated 17.10.2014 passed by the Central Administrative Tribunal, Chandigarh Bench (for short 'the Tribunal') directing them to offer appointment to respondent No.2 on the post of Multi Tasking Staff (MTS) in the OBC category.

2.) The Tribunal has issued the direction after observing that:-

“The applicant is equally meritorious as the last three candidates selected in the OBC category as he secured 45 marks. Apparently, she also has a driving licence for which in the normal course she would have got additional marks in

the interview.”

3.) The petitioner Authorities have contested the claim of respondent No.2 on the ground that originally 68 posts reserved for OBC category were advertised out of which only 63 were decided to be filled up. It is explained that there are 72 candidates belonging to OBC category who are placed above respondent No.2 in the final merit list. It is further explained that those 72 candidates though have secured 45 marks i.e. equivalent to respondent No.2 but being older in age than her have rightly been placed above in the merit list.

4.) The resultant effect is that the direction issued by the Tribunal to offer appointment to respondent No.2 would mean that 72 candidates who are placed higher in the selection list are to be overlooked. Such a direction is obviously prejudicial to the interest of those candidates.

5.) Faced with this, learned counsel for respondent No.2 submits that respondent No.2 is entitled to 10 marks additionally for the 'driving licence' and should these marks be added her overall marks would increase to 55.

6.) The question whether respondent No.2 is entitled to additional marks for the driving licence and whether such additional marks were claimed by her at an appropriate stage during the selection process, has not been expressly gone into by the Tribunal though it has observed that “apparently she also has a driving licence for which in the normal course she would have got additional marks in the interview”.

7.) We have heard learned counsel for the parties and gone through the record.

8.) In our considered view, the matter requires re-consideration by the Tribunal with reference to the following two questions:-

(i) Whether respondent No.2 can be directed to be appointed against a post reserved for OBC category even if there are candidates of that reserved category above her in the selection list who are still awaiting appointment?

(ii) Whether respondent No.2 raised the claim for award of additional marks for the 'driving licence' possessed by her and if so whether she is entitled to such additional marks?

9.) Since the matter is remitted to the Tribunal for fresh adjudication, we do not express any views on these questions. For the reasons aforesaid, the order dated 17.10.2014 is set aside and the matter is remitted to the Tribunal for fresh adjudication.

10.) Parties are directed to appear before the Tribunal on 24.08.2015.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

July 23, 2015.

sandeep sethi