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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6568/2016

AMARNATH MAURYA Petitioner
Through: Mr. Bonny Laishram, Adv.

versus

STAFF SELECTION COMMISSION Respondent
Through: Mr. Umesh Sharma, Sr. Panel Counsel
with Mr. Santosh Kumar Pandey, Advocate (Govt.
Pleader).

CORAM:
HON'BLE MS. JUSTICE INDIRA BANERJEE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **08.09.2016**

1. The petitioner, a candidate for appointment to the post of Constable in the Central Armed Police Force and other related services applied pursuant to an advertisement published in the Rozgar Samachar dated January, 24, 2015. The petitioner claims to be an OBC candidate.
2. According to the petitioner, he applied online on February 1, 2015 from a cyber-cafe. The form was filled up as per his instructions, by the owner of the cyber-cafe, who inadvertently ticked the column for general category instead of the column for the OBC category.

3. The petitioner was apparently called for Physical Efficiency Test and Physical Standard Test on June 5, 2015. According to the petitioner, on the date of physical examination before the physical tests were conducted, the petitioner was required to fill up a form in which he duly mentioned that he belonged to the OBC category, which is not in dispute.

4. The petitioner qualified in the Physical Efficiency Test and the Physical Standard Test, after which the petitioner was required to take a written test. The petitioner, obviously, because of the alleged mistake in the initial application form filled online, was treated as general category candidate. According to the petitioner, the petitioner would have qualified in the written test, having regard to the cut-off marks for OBC candidates, if the petitioner were treated as an OBC candidate.

5. From the documents disclosed before us, it is patently clear that the respondent authority accepted the Form which was filled up by the petitioner at the time of Physical Efficiency Test / Physical Standard Test, in which he has been shown as a candidate of the OBC category.

6. It is true that the respondent authorities cannot really be blamed for treating the petitioner as a general candidate as this was done on the basis of

his own online application. However, if the petitioner is actually an OBC candidate, it would not be fair to disqualify him only because of an inadvertent error in his online application. A common test is held for all candidates. However, the cut-off marks are different for candidates belonging to the OBC and / or candidates belonging to the Scheduled Castes and Scheduled Tribes.

7. By an order dated July 29, 2016, an earlier Division Bench comprised of Pradeep Nandrajog and Pratibha Rani, J.J. directed the counsel appearing on behalf of the respondent to verify the facts pleaded by the petitioner and produce in Court the form which the petitioner had filled up, when he took the Physical Efficiency Test and Physical Standard Test and the documents appended therewith.

8. Unfortunately, counsel appearing on behalf of the respondent does not have necessary instructions with regard to the veracity of the pleadings in the writ petition. A photocopy of the form filled up at the time of the Physical Efficiency Test / Physical Standard Test is annexed with the writ petition as Annexure P-2. In the said form, the petitioner filled up the

column meant for OBC candidates.

9. After hearing the respective parties, we dispose of the writ petition by directing the respondent authorities to treat the writ petitioner as an OBC candidate provided the writ petitioner is, on the basis of the requisite certificate and other documents, if any, furnished by the writ petitioner, able to satisfy the respondent authorities that he belongs to an OBC community. It is made clear that this order is not to be construed as any finding of this Court that the petitioner belongs to an OBC community.

INDIRA BANERJEE, J

V. KAMESWAR RAO, J

SEPTEMBER 08, 2016/jg