

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10215 of 2014

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1. Ashutosh Kumar Son of Parmeshwar Dayal, Resident of village-
Hathitola, P.O. +P.S.- Maner, District- Patna

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs
(Shashtra Seema Bal), Government of India, New Delhi
2. The Regional Director, Staff Selection Commission (CR), Allahabad
3. The Deputy Director Staff Selection Commissioner (CR) Ministry of
Personnel, Public Grievances & Pensions, 21-23, Lother Road, Allahabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Helal Ahmad

For the Respondent/s : Mr. N. A. Shamsi (A.S.G.)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA

ORAL ORDER

3 23-11-2017 Heard both sides.

The petitioner by filing this writ petition seeks quashing of order dated 31.05.2013, as contained in F.N. 220/SSC-CR/2012 N.O.M.(CT/GD), issued by the Deputy Director(C.R.) by which the candidature of the petitioner has been cancelled on the ground that the petitioner received less marks and further seeks for a direction to the respondent to appoint the petitioner on the post of constable(GD) in CAPFS and Rifleman(GD) in Assam Rifles in OBC category.

The petitioner being O.B.C. category applied for the post of constable(GD) in CAPFS and Rifleman(GD) in Assam Rifles conducted by the Staff Selection Commission for



constable(GD) in CRPF and Rifleman(GD) in Assam Rifles Examination, 2012. He got Roll No.32063039738. The petitioner got his admit card on 17.02.2012 to appear in physical efficiency test. The petitioner passed the physical efficiency test and he got admit card on 22.04.2012 to appear in the written test. The petitioner also passed through written test and thereafter admit card on 27.07.2012 was issued to appear at the medical examination. The provisional merit list of successful candidates was published(Annexure5) in which the name of the petitioner appeared at Sl. No.9996 for appointment in B.S.F. At page 16, it would appear that the appointment of petitioner was shown as under process. The petitioner received a letter issued by the respondent on 18.12.2012 showing that the petitioner did not submit the caste certificate according to the advertisement and the signature of the petitioner differs from the signature found on the application form. The petitioner submitted his caste certificate on 07.01.2013 but when the petitioner did not get his appointment letter, the petitioner sent a letter to Public Grievances and Pension Cell (Personnel and Training Department), Staff Selection Commission, Central Bench on 03.05.2013. Thereafter, the petitioner got letter dated 31.05.2013 that the petitioner although filled up the application in category no.6, O.B.C. but he could not



submit caste certificate in prescribed format as per notice of examination, therefore, his candidature was found in general category and he was not found selected.

The respondents filed counter-affidavit and stated that the Staff Selection Commission published advertisement for recruitment of constable(GD) in CAPFS and Rifleman(GD) in Assam Rifles. The petitioner applied for appointment of the aforesaid post.

Note-II of the aforesaid advertisement clearly says that “the candidates applying for the examination should ensure that they fulfill all the eligibility conditions for admission to the examination. Their admission at all the stages of examination will be purely provisional, subject to their satisfying the prescribed eligibility conditions. If, on verification, at any time before or after the written examination and interview, it is found that they do not fulfill any of the eligibility conditions, their candidature for the examination will be cancelled by the Commission”.

According to **clause 4(c)** of the advertisement (Annexure-A), the candidate was required that “if any candidate or candidates who wish to be considered against vacancies reserved/or seek age-relaxation must submit requisite certificate from the competent authority, in the prescribed format when such



certificates are sought by concerned Regional office and when decided by the Commission. Otherwise, their claim for SC/ST/OBC/ExS status will not be entertained and their candidature/applications will be considered under General(UR) category. The formats of the certificates are annexed. Certificates obtained in any other format will not be accepted. Candidates claiming OBC status may note that certificate on creamy layer status should have been obtained within three years before the closing date i.e. 04.01.2012. The Commission has decided to accept OBC certificate, in the prescribed format issued after 04.01.2012 but before the date of their medical examination, as valid proof of belonging to OBC”.

The learned counsel for the petitioner submits that admittedly petitioner submitted his caste certificate along with application form for appointment but the same was admittedly prepared much prior to three years from the last date of closing the form i.e. 04.01.2012 but his result was published as successful candidate and the recommendation was shown under process. The learned counsel for the petitioner further submits that the petitioner received communication on 18.12.2012 that he did not submit caste certificate and his signature on the application does not tally with his signature on other papers. Thereafter, the



petitioner submitted his caste certificate and also signature on 07.01.2013 but when his name was not recommended for appointment, the petitioner filed petition to seek instruction on such, Annexure 1 was issued. Admittedly, the petitioner got 62 marks and the last candidate of OBC who was recommended for appointment on the post of constable got 60 marks. The learned counsel for the petitioner submits that respondent has illegally cancelled the candidature of the petitioner on the ground of non-submission of caste certificate although he has successfully passed all the examinations. On similar facts, the Apex Court in the case reported in **(2016) 4 Supreme Court Cases 754(Ram Kumar Gijroya v. Delhi Sub. Services Selection Board & Anr.)** held that candidature of a candidate belonging to O.B.C./SC/ST should not be rejected simply on account of late submission of caste certificate.

On the contrary, Mr. Rajesh Kumar Verma, the learned counsel appearing on behalf of the Union of India has submitted that the case of the petitioner has not been considered on the ground that he submitted the certificate belatedly but according to the advertisement for appointment, in clause 4(c) of the aforesaid advertisement, the petitioner was required to submit the creamy layer caste certificate prepared within three years from



the last date of closing of the application form i.e. 04.01.2012 or the Commission also extended the date for submission of such certificate prepared within three years either from the last date of closing the certificate i.e. 04.01.2012 or from the date of medical examination i.e. 27.07.2012 but the petitioner submitted his creamy layer caste certificate of O.B.C. prepared on 27.09.2012. Admittedly, it was found during scrutiny that the petitioner had annexed the OBC certificate with the application form prepared more than three years before the date of submission of application form and that is why his appointment was shown under process. The petitioner was found selected under the OBC category provisionally subject to his submission of such certificate which was prepared within three years from the last date of submission of application form i.e. 04.01.2012 or within three years from the date on which the petitioner was medically examined i.e. 27.07.2012 but the petitioner after issuance of notice on 18.12.2012(Annexure-7) submitted his caste certificate but the caste certificate was admittedly prepared after the date on which the petitioner was medically examined. Therefore, the caste certificate of the petitioner prepared after his medical examination was found invalid in view of clause 4(c) of the advertisement(Annexure A) and accordingly, the petitioner was



treated in the general category and he did not get less marks than the last candidate selected in the general category. Although, it has wrongly been typed that the petitioner get less marks than the last candidate selected in the O.B.C. category, the petitioner was treated in general category for want of the proper caste certificate. It is further submitted that this Court on similar facts in CWJC No.4477 of 2013 dismissed the writ petition filed by Vishal Kumar. Vishal Kumar preferred L.P.A. No.775 of 2016 arising out of CWJC No.4477 of 2013 and the Division Bench of this Court vide order dated 29.06.2017 dismissed the L.P.A.

It is not a case of non-submission of caste certificate belatedly rather it is a case of non-submission of caste certificate as required under clause 4(c) of the advertisement, therefore, the fact of the case is quite different from the case of Ram Kumar Gijroya(supra). Similarly in CWJC No.48051 of 2016, a Single Bench of Allahabad High Court directed the respondent therein to consider the case of his appointment in view of the judgment of the Apex Court rendered in Ram Kumar Gijroya (supra).

Having heard both sides and on perusal of the records, admittedly, I find that the petitioner applied for appointment on the post of constable(GD) in CAPFS and Rifleman(GD) in Assam Rifles in pursuance of the advertisement(Annexure-A). The



petitioner submitted his application form along with the O.B.C. caste certificate claiming to be considered under the O.B.C. category. The petitioner passed his physical eligibility test, written test and medical test and his name was shown in the provisional selected list under process. When the petitioner enquired, the authority issued the letter on 18.12.2012 that the petitioner did not submit his caste certificate of O.B.C., category no.6, along with the application form and the signature of the petitioner on the application form also does not tally with the signature found on another papers. Petitioner appeared and submitted his caste certificate on 07.01.2013 as claimed by the petitioner. The learned counsel for the petitioner also admitted that the petitioner submitted the O.B.C. caste certificate on 07.01.2013 which was prepared on 27.09.2012(Annexure-8). According to clause 4(c) of the advertisement, the petitioner is required to produce the O.B.C. certificate of creamy layer prepared within three years from the date of closing of the application i.e. 04.01.2012. It is not in dispute that the petitioner submitted his O.B.C. certificate along with the application form which was prepared more than three years before the last date of closing i.e. 04.01.2012 and later on, the petitioner filed O.B.C. certificate prepared on 27.09.2012, admittedly, after last date i.e. 27.07.2012 on which date the



petitioner appeared for medical test. Therefore, the petitioner does not fulfill the criteria and he cannot claim to be considered for appointment in the O.B.C. category. Accordingly, I find that the authority has rightly rejected the claim of the petitioner to be considered for appointment on the post of constable (B.S.F.) in the O.B.C. category as the petitioner failed to deposit the caste certificate of O.B.C. prepared within three years from the last date of closing the application form i.e. 04.01.2012 or the extended date i.e. 27.07.2012 on which the petitioner appeared for medical test.

Having considered the facts aforesaid, I do not find any merit in this case. Accordingly, this writ petition is dismissed.

(Prabhat Kumar Jha, J)

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