

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

C.W.P.No.16907 of 2015 (O&M)

Date of Decision: December 18, 2017

**Union of India through Secretary, Ministry of Communication and
Information Technology, New Delhi & others**

...Petitioners

Versus

Monika & another

...Respondents

**CORAM: HON'BLE MR.JUSTICE AJAY KUMAR MITTAL
HON'BLE MR.JUSTICE AMIT RAWAL**

Present: Mr.Namit Kumar, Advocate,
for the petitioners.

Mr.Jaivir Singh Chandail, Advocate,
for respondent No.1.

AMIT RAWAL, J.

1. Union of India has invoked the extraordinary writ jurisdiction of this Court under Articles 226/227 of the Constitution of India challenging order dated 22.5.2015 (Annexure P-3) passed by the Central Administrative Tribunal, Chandigarh Bench (for short "CAT"), whereby the order dated 28.1.2015 (Annexure A-11) rejecting candidature of applicant-respondent No.1, challenged at the behest of respondent No.1, had been quashed.

2. Mr.Namit Kumar, learned counsel appearing on behalf of the petitioners submitted that on 25.2.2014, a notification was issued for filling up the posts of Postal Assistants/Sorting Assistants, Postal Assistants (Saving Bank Control Organisation)/Postal Assistant (Return Letter Offices/Postal Assistants (Mail Motor Services) and Postal Assistants (Circle and Regional Offices) for the year 2013-14. Respondent No.1 applied for the

said post by filling OMR under OBC category. She appeared for aptitude test held on 27.4.2014 and type/computer test on 12.7.2014/14.7.2014 and vide letter dated 21.10.2014 (Annexure A-5) was provisionally selected as Postal Assistant (Post Offices) subject to completion of formalities. In pursuance to the aforementioned letter, respondent No.1 appeared and produced the original certificates. On scrutiny of the documents, it was found that the OBC certificate was issued on 29.10.2014, i.e., after the last date for receipt of application form.

3. It was next contended that respondent No.1 approached this Court for an appropriate direction to the respondents to accept the necessary documents by filing CWP No.23441 of 2014. The aforementioned writ petition, vide order dated 17.11.2014 (Annexure A-7), was disposed of with liberty to the petitioner, therein, to make a detailed representation to the competent authority, i.e., Chief Post Master General, Haryana. In pursuance to the direction, a representation dated 22.11.2014 (Annexure A-8) was submitted to the competent authority. It is in this backdrop of the matter, order dated 9.1.2015 (Annexure A-10) was passed after noticing the fact that respondent No.1 had submitted the aforementioned OBC certificate, which was issued after the last date of submission of the application form and as a consequence thereof, impugned order dated 28.1.2015 (Annexure A-11) terminating the services of respondent No.1 was passed. The aforementioned order was challenged by preferring an Original Application before the CAT and vide order dated 22.5.2015 (Annexure P-3), the same has erroneously been allowed, which is not sustainable in the eyes of law for the following reasons:-

a) Admittedly, respondent No.1 was not having the OBC

certificate on the cut off date, i.e., 27.3.2014 whereas the date of OBC certificate was 29.10.2014, thus, was not eligible to submit the application under OBC category;

b) Owing to the ineligibility as on 27.3.2014, respondent No.1 gave wrong declaration of belonging to OBC category by signing declaration form at the end of Column No.27. The aforementioned information furnished by respondent No.1 was trusted and believed. It is well settled proposition of law that the eligibility is to be seen on the cut off date.

c) No person is entitled to recruitment in service, who submitted the false declaration or obtained the certificate by misrepresentation and misleading the department. Thus, the order under challenge is not sustainable in the eyes of law.

4. Per contra, Mr.Jaivir Singh Chandail, learned counsel appearing on behalf of respondent No.1 submitted that the matter stands concluded by the judgment rendered by the Hon'ble Apex Court in **Ram Kumar Gijroya Versus Delhi Subordinate Services Selection Board & Anr., 2016(4) SCC 754**. It was urged that on the basis of the said judgment, two Civil Writ Petitions, i.e., 16893 and 17425 of 2015 involving the identical questions of law and facts were allowed by the Division Bench of this Court vide order dated 3.11.2016. It was, thus, contended that the writ petition merits dismissal.

5. We have heard the learned counsel for the parties and appraised the paper book.

6. The Apex Court in **Ram Kumar Gijroya's case (supra)**, was examining identical issue where the OBC certificate was not submitted

along with the application, but filed after the last date mentioned in the advertisement. It was held that the candidature of those candidates, who belonged to the reserved categories, could not be rejected simply on account of late submission of the caste certificate. Relevant paragraphs of the judgment rendered in **Ram Kumar Gijroya's case (supra)**, reads thus:-

“3. The important question of law to be decided in these appeals is whether a candidate who appears in an examination under the O.B.C. category and submits the certificate after the last date mentioned in the advertisement is eligible for selection to the post under the O.B.C. category or not.

14. The Division Bench of the High Court erred in not considering the decision rendered in the case of Pushpa (supra). In that case, the learned single Judge of the High Court had rightly held that the petitioners therein were entitled to submit the O.B.C. certificate before the provisional selection list was published to claim the benefit of the reservation of O.B.C. category. The learned single judge correctly examined the entire situation not in a pedantic manner but in the backdrop of the object of reservations made to the reserved categories, and keeping in view the law laid down by a Constitution Bench of this Court in the case of [Indra Sawhney v. Union of India, 1992 \(Supp\) 3 SCC 217](#) as well as [Valsamma Paul v. Cochin University & Ors., \(1996\) 3 SCC 545](#). The learned single Judge in the case of Pushpa (supra) also considered another judgment of Delhi High Court, in the case of Tej Pal Singh (supra), wherein the Delhi High Court had already taken the view that the candidature of those candidates who belonged to the S.C. and S.T. categories could not be rejected simply on account of the late submission of caste certificate.

16. In our considered view, the decision rendered in the case of Pushpa (supra) is in conformity with the position of law laid down by this Court, which have been referred to supra. The

Division Bench of the High Court erred in reversing the judgment and order passed by the learned single Judge, without noticing the binding precedent on the question laid down by the Constitution Benches of this Court in the cases of Indra Sawhney and Valsamma Paul (supra) wherein this Court after interpretation of Articles 14,15,16 and 39A of the Directive Principles of State Policy held that the object of providing reservation to the SC/ST and educationally and socially backward classes of the society is to remove inequality in public employment, as candidates belonging to these categories are unable to compete with the candidates belonging to the general category as a result of facing centuries of oppression and deprivation of opportunity. The constitutional concept of reservation envisaged in the Preamble of the Constitution as well as Articles 14, 15, 16 and 39A of the Directive Principles of State Policy is to achieve the concept of giving equal opportunity to all sections of the society. The Division Bench, thus, erred in reversing the judgment and order passed by the learned single Judge. Hence, the impugned judgment and order passed by the Division Bench in the Letters Patent Appeal No. 562 of 2011 is not only erroneous but also suffers from error in law as it has failed to follow the binding precedent of the judgments of this Court in the cases of Indra Sawhney and Valsamma Paul (supra). Therefore, the impugned judgment and order passed by the Division Bench of the High Court is liable to be set aside and accordingly set aside. The judgment and order dated 24.11.2010 passed by the learned single Judge in W.P. (C) No. 382 of 2009 is hereby restored.”

7. Following aforementioned dictum, Division Bench of this Court in CWP No.16893 of 2015 (Union of India and others Versus Dharambir and others), decided on 3.11.2016 reiterated the earlier view.

The relevant part of the same read thus:-

“3. Being aggrieved by the order dated 29.01.2015 (Annexure P-4), the petitioner has filed the present writ petition under Articles 226/227 of the Constitution of India, for setting aside the order Annexure P-4 passed by the CAT whereby the order dated 18/19.02.2014 (Annexure A-1) was quashed.

4. We have heard learned counsel for the parties and carefully gone through the record.

5. At the outset, learned counsel for respondent No. 1 had pointed out that the present case is squarely covered by the judgment of Apex Court in **Ram Kumar Gijroya Vs. Delhi Subordinate Services Selection Board and another, 2016(4) SCC 754.**

6. The sole question which requires determination by this Court in the present case is whether a candidate who was not having a valid caste certificate and by giving a wrong declaration that he was having a valid certificate on the basis of which he was selected, but later on it was found that on the cut off date he was not having any valid caste certificate can still be considered eligible?

7. The aforesaid question has been dealt with by the Apex Court in **Ram Kumar Gijroya's case (supra)**. The Apex Court referring to the decision of High Court of Delhi in **Pushpa Vs. Government of NCT of Delhi and others**, decided on 11.02.2009 held that the candidature of those candidates who belonged to the reserved categories could not be rejected simply on account of the late submission of caste certificate.

8. Since, it is not disputed that the controversy involved in the present petition has been set at rest by the Apex Court in **Ram Kumar Gijroya's case (supra)** and this fact has also not been disputed by learned counsel for the petitioners, we do not find any merit in these petitions and dismiss both the writ petitions (CWP Nos. 16893 and 17425-2015).”

8.

In view of the above, the candidature of the candidates, who

belonged to the reserved category could not be rejected simply on account of late submission of the caste certificate by them. Resultantly, we do not find any merit in the present writ petition. The same stands dismissed.

**(AJAY KUMAR MITTAL)
JUDGE**

**(AMIT RAWAL)
JUDGE**

**December 18, 2017
ramesh**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No