

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8610 of 2014

Date of decision: 07.07.2017

Ramandeep Kaur

...Petitioner

Vs.

Institute of Banking Personnel Selection and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Sapan Dhir, Advocate for the petitioner.

Mr. Aayush Gupta, Advocate for respondent No. 1.

P.B. BAJANTHRI, J.(ORAL)

In the instant writ petition, the petitioner has questioned one of the clause issued in the advertisement dated 12.08.2013 whereby candidates of OBC were directed to produce relevant Caste Certificate obtained during the intervening period from 01.04.2013 to 31.03.2014, petitioner has questioned the eligibility of rejection of his candidature vide Annexure P-10 which was circulated through website on 01.05.2014 and further sought direction to consider petitioner's candidature and OBC Certificate for appointment to the post of CWE Clerk-III with reference to the OBC Certificates dated 31.08.2012 and 24.04.2014.

Second respondent issued advertisement for the post of CWE Clerk-III on 12.08.2013 while fixing the last date for submission of application as on 07.09.2013. Petitioner is a candidate of CWE Clerk-III under OBC category. Petitioner was subjected to process of selection in which he was successful upto the stage of interview. At the time of interview petitioner produced the OBC

Certificate dated 31.08.2012 which was not considered due to the condition imposed in the advertisement that persons who applied under OBC category were required to furnish requisite Certificate obtained during the period from 01.04.2013 to 31.03.2014. Petitioner at the time of interview produced the OBC Certificate dated 31.08.2012. Accordingly, the petitioner's candidature was rejected on the score that the same cannot be accepted in view of the clause imposed in the advertisement that OBC Certificate was required to produce issued during the period from 01.04.2013 to 31.03.2014. Hence the petitioner is challenging the clause imposed in the advertisement and rejection of candidature on that basis.

Learned counsel for the petitioner submitted that for the purpose of consideration of OBC Certificate for selection to any post, the authorities cannot insist for a particular date for the reasons that status of caste of OBC could not change from time to time and therefore, whenever certificate is obtained the same shall be taken into consideration unless and until necessary amendments are made. Hence imposing clause that candidates of OBC category were required to obtain Certificate during the period from 01.04.2013 to 31.03.2014 is highly arbitrary and illegal. It was further submitted that petitioner has obtained OBC Certificate dated 24.04.2014 subsequently to the date of interview. Therefore, he seeks direction to the concerned second respondent to entertain his candidature under OBC category dated 24.04.2014. In support of this contention he relies upon Supreme Court judgment titled as, ***“Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board and another” 2016(4) SCC 754*** in which Supreme Court has held that insofar as Caste Certificate is concerned, it is to be produced at the relevant point of time normally at the time of interview and the same shall be entertained

subsequently also because the candidate's caste will not change.

Per contra learned counsel for the respondent has submitted that petitioner has not impleaded Punjab National Bank as a party, therefore, writ petition is liable for rejection for non-joinder of necessary party. It was further contended that as per the advertisement and clause imposed in the advertisement, petitioner was required to produce OBC Certificate issued during the period from 01.04.2013 to 31.03.2014. Inadvertently, he has not produced OBC Certificate of the relevant period on the date of interview and produced OBC Certificate dated 31.08.2012. Thus, the respondents have rightly rejected the claim for selection of the petitioner for the post of CWE Clerk-III. It was further submitted that rejection of the petitioner's claim for selection of his appointment is in accordance with advertisement and therefore, no interference is made out.

Heard learned counsel for the parties.

Non-joinder of Punjab National Bank by the petitioner may not be a hurdle for deciding the present petition, for the reasons that second respondent, who has been assisted by large number of banks to record candidature and forward their names for further process up to the stage of scrutiny of documents before holding interview, has to process the selection criteria. In the present case, perusal of Annexure P-10 reveals that petitioner's claim had been rejected with reference to the OBC Certificate produced by the petitioner. Question of impleading Punjab National Bank would arise only when petitioner's documents are not scrutinised by the second respondent. In other words, when the second respondent had already rejected the claim of the petitioner before reaching it at next stage, therefore, non impleading of Punjab National Bank would not be a hurdle in the present petition.

The respondents while issuing advertisement for the post of CWE

Clerk-III, imposed the clause that OBC candidates are required to produce OBC Certificates issued during the period from 01.04.2013 to 31.03.2014. Insisting the petitioner to produce OBC Certificate issued during the relevant period is not in accordance with law, for the reasons that OBC Certificate holder's Caste would not change from time to time like other economically backward classes. Therefore, insisting of OBC Certificate for a particular period is highly arbitrary and illegal. Consequently, relevant clause insisting for obtaining OBC Certificate issued during the period 01.04.2013 to 31.03.2014 in the advertisement is liable to be set aside.

Consideration of OBC Certificates dated 31.08.2012 and 24.04.2014 by the second respondent are concerned, it is to be noted that status of OBC person relating to caste would not change, therefore, second respondent should have considered the Certificate dated 31.08.2012. If the Certificate dated 31.08.2012 cannot be considered in view of the condition imposed in the advertisement that a candidate must have OBC Certificate during the period from 01.04.2013 to 31.03.2014, even then the petitioner has OBC Certificate dated 24.04.2014 which was not produced at the relevant point of time but the same could be taken into consideration for the purpose of selection in view of law laid down in **Ram Kumar Gijroya's case (supra)** wherein the Supreme Court has held that caste certificate could be taken into consideration even at the later stage.

In view of these facts and circumstances, the clause imposed in the advertisement that OBC candidates are required to obtain certificate during the period from 01.04.2013 to 31.03.2014 is set aside. Consequently, the respondent is hereby directed to entertain the petitioner's OBC Certificate dated 31.08.2012 or 24.04.2014 for the purpose of her selection for the post of CWE Clerk-III within a

period of 3 months from today.

Learned counsel for the petitioner has submitted that at the time of issuing notice of motion, this Court directed that one post of CWE Clerk-III be kept vacant and the same be decided subject to the outcome of this writ petition. Therefore, if the petitioner is found eligible, then the respondents are directed to consider her candidature and appoint her within a period of three months. She be appointed on notional basis with all service benefits as if she was appointed among others.

July 07, 2017
Poonam (II)

(P.B.BAJANTHRI)
JUDGE

Whether speaking/ reasoned:	Yes
Whether Reportable:	No