

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

**LPA No.2475 of 2016 (O&M)
Date of Decision : 08.11.2017**

Sandeep Kumar

..... Appellant

Versus

Staff Selection Commission and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI**

Present : Mr. R.S.Manhas, Advocate
for the appellant.

Mr. Indresh Goel, Advocate
for the respondents.

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment dated 27.01.2016,
passed by the learned Single Judge.

The appellant claims himself to be of a backward class and applied for the post of constable in that category. One of the requirements was that a candidate claiming the benefit of reservation had to produce a certificate of his caste or backward class issued within three years of the cutoff date i.e. 04.03.2011. The appellant produced a certificate of the year 2007 which was not considered by the respondent in terms of the aforesaid stipulation. He then furnished an undertaking that he be considered in the general category which was accepted by the respondents. Undertaking (Annexure R-2) has been appended with the reply filed before the writ Court which is extracted herebelow:-

“I Sandeep Kumar S/O Sh. Ramdhan Singh Roll No.2201501666 am an applicant for the post of Constable/General Duty requirement 2011 and my OBC Certificate is not as per the performa prescribed by Staff Selection Commission, nor this certificate has been made within the stipulated period (last 03 years). I may be permitted at my own risk to appear in examination as a general candidate. In this regard the decision of Staff Selection Commission will be acceptable to me.”

The appellant did not find place in the general category and then he submitted another certificate of the year 2008 and contended that he be considered against the category to which he had applied which was declined.

Learned counsel for the appellant contends that concededly the appellant belongs to the backward class category and had furnished a certificate. Later on an undertaking upon which reliance has been placed by the respondent was procured under duress.

We are of the opinion that we cannot accept this plea particularly when the appellant did not mention it in the writ proceedings and should have been forthright in doing so but the true facts were disclosed in the reply filed by the State. This document i.e. the affidavit is now sought to be wished away by the appellant by contending that he was not aware of it at all. We are of the opinion that such a plea apparently seems to have been taken dishonestly. The appellant does not deny the existence of the document even now but states that it was obtained under duress. If he does not deny the existence then he would have been aware of it.

The whole stand has been conjured up to suit his convenience.

Once he had opted for the general category and respondent considered it, he cannot now take up the plea that his old OBC certificate be considered.

No ground for interference is made out.

Dismissed. However, delay of 190 days in refiling the appeal is condoned.

(MAHESH GROVER)
JUDGE

08.11.2017
mamta-M

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No