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

+ **W.P.(C) 1751/2016**

Date of decision: 28th March, 2017

VIVEK KUMAR Petitioner

Through Mr. Ram Niwas Buri, Advocate.

versus

DELHI METRO RAIL CORPORATION LTD Respondent

Through Mr. V.S.R. Krishna, Advocate for the
DMRC.

Mr. Sanjeev Narula, Central Government Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

SANJIV KHANNA, J. (ORAL)

Vivek Kumar, in this writ petition, impugns order dated 3rd December, 2015, whereby OA No. 4214/2015 filed by him has been dismissed by the Principal Bench of the Central Administrative Tribunal (Tribunal, for short).

2. The petitioner is a resident of Village Chainpura, Post Office-Ladusar, District Jhunjhunu, Rajasthan and belongs to the 'Jat' community.

3. The petitioner, as an Other Backward Classes (OBC) candidate, had applied for selection pursuant to Advertisement/Notification No. DMRC/OM/HR/II/2014 issued by the Delhi Metro Rail Corporation Ltd., for the post of Assistant Manager (S&T), to be filled through an All India Competitive Examination. The selection process comprised of three stages; written test (two papers), group discussion and personal interview followed

by medical examination. The petitioner on being declared successful in the written test along with fifteen others was called for group discussion/interview. However, in the select list issued vide notification dated 3rd June, 2015, only five candidates were shortlisted for the post of Assistant Manager (S&T). The petitioner did not figure in the said list.

4. The petitioner filed an application under the Right to Information Act, 2005 and then learnt that he had secured 67.34 marks, out of a grand total of 100 marks, which marks were higher than the cut-off marks of 63.17 for the OBC category and 66.58 for unreserved category. However, the petitioner was not selected as his OBC status was rejected relying upon the decision of the Supreme Court in ***Ram Singh and Ors. Vs. Union of India***, (2015) 4 SCC 697.

5. The petitioner had thereupon filed OA No.4214/2015, which, as noticed above, has been dismissed by the impugned order dated 3rd December, 2015. The impugned order rejects the contention of the petitioner that the decision in the case of ***Ram Singh*** (supra) quashing the notification dated 04th March, 2014 had the effect of excluding Jats from Bharatpur and Dholpur districts of Rajasthan from the Central List of OBCs and did not exclude Jats from the Jhunjhunu district to which the petitioner belonged. Reliance is placed on notification dated 27th October, 1999 to urge that Jats from the Jhunjhunu district would continue to be included in the Central OBC List, notwithstanding the quashing of the notification dated 4th March, 2014. It is highlighted that the subject matter of challenge in ***Ram Singh*** (supra) was the validity of notification dated 4th March, 2014, which had the effect of including Jats in the Central List of OBCs for the State of Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, NCT

of Delhi, Uttar Pradesh, Uttarakhand and Bharatpur and Dholpur districts of Rajasthan.

6. To examine the issue and contention, this Court had directed the Standing Counsel for the Union of India to obtain instructions with regard to the notification dated 27th October, 1999, which had included Jats in the State of Rajasthan, except for Bharatpur and Dholpur districts, in the Central OBC List and whether the decision in the case of **Ram Singh** (supra) had the effect of striking down the said notification.

7. On 19th April, 2016, the Standing Counsel for the Union of India had affirmed and submitted that in the **Ram Singh's** (supra) case, the Supreme Court had examined validity and had struck down the notification dated 4th March, 2014 and not the earlier notification dated 27th October, 1999 and hence, the inclusion of Jats in the State of Rajasthan, except for Bharatpur and Dholpur districts, in the Central List of OBCs, would continue and remains valid. However, subsequently, on 9th January, 2017, the Central Government Standing Counsel had stated that the earlier statement recorded on 19th April, 2016 was incorrect and was not the stand of the Union of India. In these circumstances, we had directed the Union of India to file an affidavit, which has been filed stating, inter alia, that the decision in the case of **Ram Singh** (supra) had struck down the notification dated 4th March, 2014 and not the earlier notification dated 27th October, 1999 as the validity of the latter was not in question and was not challenged before the Supreme Court. Thus, the Jats in the State of Rajasthan, except for Bharatpur and Dholpur districts, continue to remain in the Central List of the OBCs.

8. Counsel for the petitioner and the Union of India, have referred to the decision in the case of **Ram Singh** (supra). In particular, our attention was

drawn to paragraph 2, which states that the National Commission for Backward Classes had studied the claims and had submitted a report dated 28th November, 1997, recommending inclusion of Jats of Rajasthan, except for Bharatpur and Dholpur districts, in the Central OBC List. Thereafter, notification dated 27th October, 1999 was issued. It appears that various States between 3rd November, 1999 and 24th January, 2013 had issued notifications including Jats in their State, in the State OBC Lists. We are not concerned with the said lists in the present case. What was subject matter of challenge before the Supreme Court in Ram Singh (supra) was the notification dated 4th March, 2014, which had included Jats in the Central List of OBCs for the States of Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, NCT of Delhi, Uttar Pradesh, Uttarakhand and Bharatpur and Dholpur districts of Rajasthan. As noticed above, Bharatpur and Dholpur districts of Rajasthan had been excluded by the earlier notification dated 27th October, 1999. The Supreme Court's judgment refers to the report of the National Commission for Backward Classes relating to Jats in these States and Bharatpur and Dholpur districts in the State of Rajasthan, which was not accepted by the Central Government, resulting in issue of notification dated 4th March, 2014. Noticeably, there is an earlier report of the National Commission for Backward Classes dated 28th November, 1997, which had recommended inclusion of Jats of Rajasthan, except Bharatpur and Dholpur districts, in the Central OBC List. Thus, the notification dated 27th October, 1999 was never under challenge or question as the said notification was based upon the report dated 28th November, 1997 of the National Commission for Backward Classes.

9. Resultantly, we would allow the present writ petition and set aside the

impugned order dated 3rd December, 2015. OA No. 4214/2015 would be treated as allowed with a direction to the Delhi Metro Rail Corporation Ltd. to process the case of the petitioner in accordance with law for selection and appointment to the said post. The aforesaid exercise would be completed within a period of three months from the date a copy of this order is received. The petitioner, if and on being appointed, would not be entitled to backwages, but while fixing his seniority and pay, he would be given benefit of the date when his junior was appointed to the post of Assistant Manager (S&T) under the advertisement in question. The writ petition is disposed of, in the aforesaid terms, with no order as to costs.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

MARCH 28, 2017

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