

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

CWP No.19386 of 2018 (O&M)

Date of Decision: 06.08.2018

Kintam

...Petitioner

VS.

CAT & Ors.

... Respondents

**Coram : Hon'ble Mr.Justice Surya Kant
Hon'ble Mr.Justice Sudip Ahluwalia**

Present: Mr. Sandeep Malik, Advocate for the petitioner

SURYA KANT J. (Oral)

(1) The petitioner seeks quashing of the order dated 01.03.2018 (P5) passed by the Senior Superintendent of Post Offices, Karnal terminating his services as Gram Dak Sevak (GDS) of village Rajakheri as also the order dated 06.07.2018 (P1) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') whereby his Original Application challenging the order of termination of his services, has been upheld.

(2) The brief facts are like this.

(3) The Senior Superintendent of Post Offices, Karnal advertised one post of Gram Dak Sevak/MD for village Rajakheri which was reserved for Other Backward Class (OBC) category. There were 9 applicants including the petitioner and respondent No.6 (Vishal s/o Kishan). At the time of interview, the candidature of respondent No.6 and two more candidates who were admittedly higher in merit was rejected on the ground that they have not attached the requisite OBC certificate. The petitioner was thus selected and offered appointment. It is relevant to mention that as

against 66% marks of the petitioner, respondent No.6 (Vishal) had secured 77.83% marks.

(4) Respondent No.6 represented against his non-selection and on re-consideration of the matter, it was found that he being higher in merit was entitled to be appointed. Consequently, services of the petitioner were terminated. The petitioner challenged the said termination order but his OA has been dismissed by the Tribunal.

(5) The primary contention raised on behalf of the petitioner before the Tribunal as well as this Court is that the candidature of respondent No.6 was rightly rejected as he neither possessed the OBC certificate nor did he attach the same along with his application form.

(6) Contrarily, stand of the authorities is discernible from the communications dated 03.04.2017 and 17.04.2017 (P7 colly). The first document is their reply to the legal notice served on behalf of Vishal and the second pertains to the information given to him under RTI. In reply to the legal notice, the authorities have informed as follows:-

“Admitted with facts as reply was given to the applicant vide SSPOS letter No.H-2/RTI/170 dated 18.01.2017. But it is denied that Candidate Sh. Vishal has submitted his OBC Certificate with the application. Candidate has mentioned at last 2nd position (OBC प्रमाण पत्र) whereas he has not submitted the OBC Certificate under Govt. of India prescribed Performa and Rules. He has submitted BC Block A Certificate serial No.PNP/BC/2013/2893 dated 12.12.2013 issued under seal and signature of Tehsildar Panipat as certified and issued under State Govt. orders. Being mandatory requirement of OBC certificate as notified under notification A./Rajakheri/2016 dated 14.03.2016, the attached

certificate was not as per notification. Hence, application of the candidate was correctly rejected by the selection committee.”

[emphasis by us]

(7) Under the RTI, the information given to respondent No.6 (Vishal) was as follows:-

“1. Copy of application form of Vishal s/o Krishan Lal for the post of GDS/MD/C of V.Raja Kheri, Distt. Panipat is enclosed.

2. Copies of all/following documents attached with the said application are enclosed.

i. Declaration about income & residence.

ii. Certificate of Secondary Examination.

iii. Certificate of Senior Secondary Examination.

iv. Ration Card.

v. Aadhar Card.

vi. Statement of Shri Krishan Lal s/o Shri Fattan Singh

vii. Haryana Resident Certificate

viii. Backward Class Certificate

ix. Computer Education Certificate

x. Marks Certificate of Computer Education.”

(8) It is pertinent to mention that as per advertisement, candidates were required to attach following Certificates:-

“List of document attached with the application:-

1. Qualification certificate (attested copy)

2. Date of birth certificate (attested copy)

3. Caste certificate (attested copy)

4. Your and your family declaration form regarding other source of income.

5. Joining place residence declaration certificate.”

(9) It stands out from the reading of the above-reproduced documents that the candidates were required to attach their caste certificate

to establish that they belong to OBC category. Respondent No.6 did attach along with his application form the Backward Class certificate issued by the Prescribed Authority in the State of Haryana. That certificate was rejected at the time of interview on the plea that it was not as per the Government of India instructions, for it was only a certificate to declare him 'Backward Class' and not 'Other Backward Class'. Subsequently, the Authorities rectified their mistake and cancelled the appointment of petitioner and offered appointment to respondent No.6 being higher in merit. The question which thus falls for consideration is whether the action of the authorities is sustainable in law?

(10) It is undeniable that as per the advertisement, a candidate was required to attach his Caste certificate to find out whether he/she falls in the category of OBC or not. It is a matter of common knowledge that there are some castes which may be "Other Backward Class" but may not have been declared as "Backward Class". In the case in hand, it is not the case of the petitioner that respondent No.6 does not belong to Backward Classes. He admittedly belongs to Backward Class and falls amongst the Other Backward Class category as neither the official respondents nor the petitioner have taken the plea that the caste of respondent No.6 is not included amongst Other Backward Class category.

(11) The appointment offered to the petitioner was rightly cancelled as two candidates higher in merit were rejected for want of OBC certificate in the prescribed format. The mistake was rectified at the earliest and no indefeasible right can be said to have accrued in favour of the petitioner.

(12) Respondent No.6 is a Backward Class by birth. It is not that he has acquired such status after the cut-off date. The format of the Caste

certificate was not within his hand as it was admittedly issued by the State Government authorities as per their prescribed format. It was a curable mistake and the authorities have rightly rectified it to uphold the principle of merit.

(13) No case to interfere with the impugned orders is made out.

(14) Dismissed.

(Surya Kant)
Judge

06.08.2018

vishal shonkar

(Sudip Ahluwalia)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No