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

Date of pronouncement: 14th August, 2018

+ W.P.(C) 7586/2016

SUMANT Petitioner

Through: Mr. O.P. Gehlot, Adv.

versus

PUNJAB NATIONAL BANK Respondent

Through: Mr. Jagat Arora, Adv.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

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1. In the 31st December, 2014 edition of the “Veer Arjun” daily, the respondent Bank issued an advertisement, inviting applications for the post of peon. Selection was to be on the basis of interview.

2. Clause 11 (iii) of the advertisement set out the manner in which applications were to be made, and read as under:

“Self-certified copies of educational certificates/service book/Experience Certificate/ Certificate of category to which one belongs/ discharge certificate should be enclosed with the application. In case of OBC, the certificate must contain the caste of the candidate *as recognized under various orders/ instructions of the Ministry of Welfare, Govt. of India* and should also certify that he/she does not belong to the creamy layer.”

(Emphasis supplied)

3. The petitioner, who belongs to the ‘Jat’ Community, applied,

pursuant to the above advertisement, under the Other Backward Classes (OBC) category, furnishing, for the purpose, a certificate, dated 24th October, 2009, issued by the Deputy Commissioner, North-West District, Delhi, certifying that the community 'Jat', to which the petitioner belonged, was recognized as a backward class *vide* Notification dated 20th January, 1995, issued by the Government of NCT of Delhi.

4. Though, Clause 11 (iii) of the advertisement, as extracted hereinabove, specifically required the caste, in the case of OBC applicants, to be notified as OBC by the Ministry of Welfare, Government of India, the petitioner was, nevertheless, selected by the respondent Bank and was issued order, dated 9th April, 2015, appointing him as peon.

5. In view of the requirement, in the advertisement, of submission of a caste certificate as prescribed by the Ministry of Welfare, Government of India, the Bank initially wrote, to the petitioner, on 27th May, 2015, allowing the petitioner an opportunity to produce an OBC certificate in the format applicable for Central Government jobs, failing which, it was stated that the petitioner's candidature would be cancelled.

6. As the petitioner failed to produce a certificate issued by the Central Government, certifying "Jat" to be OBC, his candidature was cancelled, by the respondent, *vide* communication dated 9th July, 2015,

which has provoked the petitioner to move this court by means of the present writ petition, seeking quashing thereof.

7. I have heard Mr. O.P. Gehlot, learned counsel appearing for the petitioner and Mr. Jagat Arora, learned counsel appearing for the respondent, at considered length.

8. It is clear from a reading of clause 11 (iii) of the advertisement, pursuant to which the petitioner had applied for his appointment as peon in the respondent-Bank, that the certificate produced by him, in support of his OBC status, was required to “contain the caste of the candidate as recognized *under various orders/instructions of the Ministry of Welfare, Government of India*”. The certificate, dated 24th October, 2009, produced by the petitioner, on the other hand, only certified ‘Jat’ as being a backward caste as notified by the Govt. of NCT of Delhi. This, apparently, was the basis for the respondent to cancel the petitioner’s candidature.

9. Though, the certificate dated 24th October, 2009, furnished by the petitioner, certified his community “Jat” as being a backward class only as notified by the Government of Delhi, that alone may not have justified cancellation of the petitioner’s candidature, in view of the fact that, on the date of his application, there was, infact, a notification, dated 4th March, 2014, issued by the Central Government, notifying the “Jat” community as a backward class, for, *inter alia*, the NCT of Delhi. Unfortunately for the petitioner, however, the said

Notification was struck down by the Supreme Court, *vide* judgment dated 17th March, 2015 in ***Ram Singh v. UOI, 2015 (3) Scale 570.*** Para 55 of the report, which contains out the operative portion of the judgment, reads thus:

“ For the various reasons indicated above, we cannot agree with the view taken by the Union Government that Jats in the 9 (nine) States in question is a backward community so as to be entitled to inclusion in the Central Lists of Other Backward Classes for the States concerned. The view taken by the NCBC to the contrary is adequately supported by good and acceptable reasons which furnished a sound and reasonable basis for further consequential action on the part of the Union Government. In the above situation we cannot hold the notification dated 4.3.2014 to be justified. Accordingly the aforesaid notification bearing No.63 dated 4.3.2014 including the Jats in the Central List of Other Backward Classes for the State of Bihar, Gujarat, Haryana, Himachal Pradesh, Madhya Pradesh, NCT of Delhi, Bharatpur and Dholpur Districts of Rajasthan, Uttar Pradesh and Uttarakhand is set aside and quashed. The writ petitions are accordingly allowed.”

10. It appears that thereafter, IA Nos.13 and 14/2015 were also moved, before the Supreme Court, seeking a clarification to the effect that the judgment in ***Ram Singh (supra)*** would be prospective. However, the said IAs were also dismissed, *vide* order dated 21st July, 2015, which reads thus:

“ We have heard Ms. Indira Jaising, learned senior counsel appearing on behalf of the applicants. Our judgment dated 17.03.2015 in W.P.(Civil) No. 274 of 2004 (***Ram Singh & Ors. Vs. Union of India & Ors.***) is not prospective. Though efforts have been made to convince the Court that our aforesaid judgment needs to be reviewed/modified to make the same prospective, we see no good reason to do so. Invocation of the doctrine of prospective overruling lies in the discretion of the Court (***2003 (4) 147 Sarwan Singh & Anr. v. Madan Lal Aggarwal***) and has to be dictated by larger public

interest. (2001 (9) SCC 550 *Harsh Dhingra v. State of Haryana & Ors.*) None of the applicants, though may have been selected, had been given appointment orders prior to the judgment dated 17.03.2015 in W.P.(Civil) No. 274 of 2014. No vested right can, therefore, be recognized in any of the applicants. We find no compelling public interest to invoke the doctrine of prospective overruling. The prayers made in the present applications are, therefore, refused and the present applications are dismissed.”

11. In view of the judgment, dated 17th March, 2015, read with the subsequent order dated 21st July, 2015, in *Ram Singh (supra)*, it is clear that, on the date of cancellation of the petitioner’s candidature, the Jat community was not to be treated as a backward community for the State of Delhi, the notification issued by the Central Government in that regard having been quashed by the Supreme Court, and the prayer for according only prospective effect to the said decision hearing also been rejected.

12. In view of the fact that clause 11 (iii) of the advertisement, pursuant which the petitioner had applied, specifically covered only backward classes recognized under orders/instructions of the Ministry of Welfare, Govt. of India, and the only instruction, of the Central Government, notifying “Jat” as a backward class for the NCT of Delhi, i.e. the notification dated 4th March, 2014 (*supra*) was struck down by the Supreme Court, this Court regrets its inability to grant any relief to the petitioner.

13. Mr. Gehlot also sought to submit that, even if the petitioner were not to be treated as an OBC candidate, his ranking was higher

than “some of the general category candidates, on merits,” and that he was, therefore, eligible for appointment as peon even on that ground. The averment to the said effect, as contained in para 13 of the writ petition reads thus:

“13. The petitioner having obtained a rank higher than some of the General Category candidates on merits is eligible for appointment as a General Category candidate, as unreserved vacancies are open to all.”

14. On a query being put to him in that regard, Mr. Gehlot is unable to name the general category candidates, above whom his client claims to rank. The above extracted assertion, in para 13 of the writ petition, he submits, was included by him on the basis of his “understanding”. He requests the Court to call for the records to ascertain the facts.

15. In the absence of any particulars, the bald averment, in para 13 of the writ petition, which does not even identify the candidate(s) over whom the petitioner claims to be ranking, cannot justify a roving inquiry by this Court. In the absence of any name being given to the said candidate(s), and their specific impleadment as respondents in the writ petition, this submission does not merit consideration.

16. In view of the above discussion, it is not possible to grant any relief to the petitioner. The writ petition is dismissed without any order as to costs.

C.HARI SHANKAR, J

AUGUST 14, 2018/dsn