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

+ **W.P.(C) 9548/2018 & C.M. No.37142-37143/2018**

RENU YADAV PETITIONER
Through Mr.V.K. Tandon, Adv.

Versus

UNION OF INDIA & ORS RESPONDENTS
Through Mr.Arun Bhardwaj, CGSC with
Mr.Nikhil Bhardwaj, Adv., Mr.S.
Sharma, Adv.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE REKHA PALLI

ORDER
12.09.2018

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1. The petitioner is aggrieved by an order dated 02.04.2018, passed by the Central Administrative Tribunal, Principal Bench, New Delhi, dismissing O.A. No.1417/2016 filed by her, praying *inter alia* that her candidature in the Combined Graduate Level Examination, 2015 (in short "CGLE, 2015") conducted by the respondents, be processed and she be granted concessions as are admissible to an OBC candidate.

2. The undisputed facts of the case lie in a narrow compass. The respondent no.3/Staff Selection Commission issued an advertisement for various posts under the CGLE, 2015. The petitioner applied for

the same. On the results of the examination being declared, the petitioner found that she had secured 436 marks. She was called for an interview scheduled on 25.03.2016. The call letter issued to the petitioner stated amongst others, in para 3(iii) as follows:-

“3(iii) You should possess the OBC certificate (if applicable) in the format prescribed as per the Notice of the Exam. Candidates claiming OBC status may note that OBC certificate mentioning creamy layer status should have been indicated on the Certificate and must have been obtained between 12.06.2012 upto 09.12.2015. You should bring the Caste certificate in case of SC/ST candidate and central Govt. Civilian Employee certificate and NOC in case of availing age relaxation under CGCE, Discharge certificate (must have been discharged till 10.06.2016) in case of Ex-servicemen, OH/HH/VH certificate in prescribed format in case of Physically Handicapped category, duly self attested for verification along with ID proof (Voter card/Identity card issued by the college etc.) at the time of interview.”

3. As is apparent from the aforesaid stipulation, a candidate was required to submit an OBC certificate mentioning the creamy layer status and her community and the said certificate was required to be obtained between 12.06.2012 and 09.12.2015. The format of the certificate was also prescribed by the respondents and all the candidates were required to adhere to the same. We may note that prior to the call letter being issued by the respondent no.3, in the instructions issued to the candidates, it was clarified in para 21(4) as

follows:-

“21(4) Candidates seeking reservation benefits for SC/ST/OBC/PH/EXS must ensure that they are entitled to such reservation as per eligibility prescribed in the Notice. They should also be in possession of the required certificates in the prescribed format in support of their claim as stipulated in this Notice. OBC candidates should ensure that they are in possession of valid OBC Certificate issued within the due date issued by the authority mentioned in the format.”

4. When the petitioner appeared for her interview on 15.03.2016, she produced two OBC certificates issued by the State of Haryana, one dated 25.03.2013 and the other dated 15.02.2016. The first certificate dated 25.03.2013 reflected the name of the petitioner along with the name of her father whereas the second certificate issued on 15.02.2016, which was beyond the timeline stipulated by the respondents, reflected the name of the petitioner along with that of her husband, post her marriage. The third certificate that the petitioner sought to place before the respondents after the stage of interview was over, was dated 17.03.2016, stated to be in the format as laid down by the respondents.

5. The grievance of the petitioner is that the respondents did not consider her OBC certificates dated 25.03.2013 & 15.02.2016. Consequently, she was compelled to submit an undertaking in a printed form indicating a change in her category and stating that she be treated as an unreserved candidate.

6. Expressing an apprehension that she had been wrongly denied

reservation and the concessions that are available to a candidate belonging to the OBC category, the petitioner approached the Tribunal by filing the subject Original Application stating *inter alia* that as an unreserved candidate, she may not be selected to any of the posts or at best, would get selected only to the post of an Auditor.

7. When the petitioner filed the OA on 19.04.2016, the results had not been declared by the respondents. The said results were declared in the month of June, 2016. It is noteworthy that even as an unreserved candidate, the petitioner was selected for the post of an Assistant in the Central Secretariat Service and she admittedly joined the said post after the results were declared in June, 2016, sometime in September, 2016.

8. We would have thought that by then, the apprehension in the mind of the petitioner that she would not be selected to any post, would have been assuaged and she would have on her own, withdrawn the OA. However, she persisted with the OA before the Tribunal. By the impugned judgment, the Tribunal rejected the relief prayed for by the petitioner for the following reasons:-

“15. It is not disputed that the applicant belongs to OBC Category. However, the fact remains that she failed to produce the OBC Certificates, issued between the stipulated dates, as required under the Scheme of the exam nor were her certificates in the prescribed format. The benefits granted to the applicants, in the relied upon citations, is in those cases where denial of the OBC status would have resulted in denial of livelihood to the applicant. The same is not applicable to the facts of the

present case. The applicant stands selected in CSS and is working as an Assistant. This fact was confirmed by the applicant in person, in Court, at the time of hearing. Undoubtedly, judicial intervention is warranted where technicalities tend to impinge upon the civil right of the citizens (applicants) but would it really be fair to intervene and wish away the prescribed provisions, laid down by the Commission, to ensure smooth conduct of an exam where thousands of candidates take the exam? Should it be left for each applicant to circumvent every laid down parameter, as per their convenience? The answer is obviously “no”. A large amount of thought and preparedness goes into conducting an exam of this magnitude by the concerned agency to ensure that uniformity and objectivity, the touchstones of fair play and justice, are maintained. This can only be achieved if the prescribed norms are strictly adhered to by every candidate. Intervention in the laid down norms (dates and formats included) should be used sparingly and limited only to those cases where not doing so would result in irreparable damage to the applicant or result in ousting him/her from the system. In our considered view, the facts of the case do not call for such intervention. Hence we find no reason to interfere with the impugned order. OA is dismissed. No costs.”

Impugning the said order, the petitioner has filed the present petition .

9. Mr.Tandon, learned counsel for the petitioner submits that the Tribunal failed to appreciate that the OBC certificate issued in favour of the petitioner was as per the prescription of the respondents and, therefore, her candidature as an OBC category candidate ought to

have been processed by them without insisting on her stating that she may be treated as an unreserved category candidate; that the Tribunal failed to appreciate that it was on the pressure exerted by the respondents that at the time of her interview, the petitioner had to sign a printed undertaking requesting that she may be treated as an unreserved candidate; that even if the OBC certificate dated 17.03.2016 issued by the Tehsildar at Rewari is ignored as the same was obtained beyond the timeline prescribed by the respondents, the earlier two OBC certificates dated 25.03.2013 and 15.02.2016 issued in favour of the petitioner, ought not to have been rejected.

10. We have perused the records and carefully considered the arguments advanced by the counsel for the petitioner. It is relevant to note that the format of the certificate required to be produced by an OBC candidate, has been prescribed by the respondents and forms a part of the advertisement calling for applications for various posts in the CGLE, 2015. The said form required a certification to the effect that the candidate in question belongs to a community that is recognized as a backward community under the Government of India, Ministry of Social Justice & Empowerment, specifying the resolution number and the date which information was required to be incorporated in the certificate. Further, the certificate was required to state that the candidate ordinarily resides in the district in question of the relevant State and that he/she does not fall in the creamy layers, mentioned in the column 3 of the schedule to the Government of India, Department of Personnel & Training O.M. dated 08.09.1993.

11. Vis-a-vis the aforesaid prescribed format, the first OBC

certificate dated 25.03.2013 produced by the petitioner only stated that she does not belong to the creamy layer, as mentioned in the OM's dated 08.09.1993, 09.03.2004 and 14.10.2008 issued by the DOPT. The other two requirements prescribed in the format issued by the respondents were admittedly missing from the OBC certificate dated 25.03.2013 produced by the petitioner. As far the other certificate dated 15.02.2016 produced by the petitioner is concerned, it was not obtained within the prescribed timeline, i.e., between 12.06.2012 to 09.12.2015.

12. In view of the above position, the respondents cannot be faulted for rejecting the two OBC certificates produced by the petitioner and on the other hand, giving her an option for being treated as an unreserved category candidate. We are unable to accept the bald statement made by the petitioner that she was pressurized by the respondents to state that her candidature may be treated as an unreserved category candidate. In our view, the petitioner could have declined to do so and instead, taken legal recourse against the decision of the respondents to turn down her OBC certificate. However, the petitioner elected to proceed with the interview by undertaking that she may be treated as an unreserved category candidate and subsequently, she even succeeded in the subject examination and was selected to the post of an Assistant in the CGLE, 2015.

13. In view of the above facts and circumstances, we do not see any illegality or infirmity in the impugned order passed by the Tribunal

that warrants interference. The petition is accordingly dismissed as devoid of merit.

HIMA KOHLI, J

REKHA PALLI, J

SEPTEMBER 12, 2018/aa

