

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

LPA-922-2021 (O&M)
Date of Decision:-4.10.2021

Union of India and others

... Appellants

Versus

Sunil Kumar and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Ms. Sonia Sharma, Advocate
for the appellants.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

CM-2198-LPA-2021

The present application moved by the applicants/appellants
under Section 5 of the Limitation Act for condonation of delay of 181 days
in filing Letter Patent Appeal is hereby allowed for the reasons stated in the
application, which is supported by the affidavit of the concerned Officer of
Ministry of Defence.

LPA-922-2021 (O&M)

The appellants have filed the present appeal against the order dated 23.2.2021 whereby CWP-13954-2020 filed by respondent No.1 (petitioner therein) was allowed and the authorities were directed to consider the candidature of respondent No.1 (petitioner therein) for appointment to the post of Tradesman Mate in accordance with his merit in the OBC category subject to other parameters being fulfilled by him in accordance with advertisement (Annexure P-1). The needful was ordered to be done within a period of three months.

The writ petition was contested by the official respondents who filed written statement, contesting the claim of the respondent No.1 (petitioner therein). In their written statement the official respondents took plea that the necessary documents i.e. ITI certificate and valid caste certificate were not uploaded at the time of online submission of his application form by respondent No.1 (petitioner therein). It being so, the candidature of the respondents No.1 (petitioner therein) was rejected despite the fact that he secured 86 marks in the written examination.

After hearing the counsel for the parties, learned Single Judge allowed the writ petition while relying upon the judgment of the Hon'ble Supreme Court in **Ram Kumar Gijroya vs. Delhi Subordinate Services Selection Board & Anr. 2016(4) SCC 754.**

The appellants being aggrieved by the impugned order passed by the learned Single Judge, have filed the present appeal.

We have heard the counsel for the appellants.

The counsel for the appellants while assailing the impugned order, brought to the notice of this Court advertisement (Annexure P-1) and corrigendum-01 to said advertisement (Annexure R-2). Para No.17(2) of the said corrigendum reads as follows:-

“The Indian Navy will not undertake detailed scrutiny of applications for the eligibility and other aspects at the time of online examination and, therefore, candidature will be accepted only provisionally. The candidates are advised to go through the requirements of educational qualification, age etc. and satisfy themselves that they are eligible for the post. Supporting documents uploaded by the candidate will be verified at the time of Document Verification. When scrutiny is undertaken, if any claim made in the application is not found substantiated, the candidature will be cancelled and the Indian Navy’s decision shall be final.”

The counsel for the appellants contended that in the case at hand, candidate did not upload his ITI certificate and valid OBC certificate along with his application form for the post of Tradesman Mate in Indian Navy. The learned counsel further argued that due to aforesaid deficiency, the candidature of respondent No.1 was rejected by the authorities in the terms and conditions as detailed in advertisement (Annexure P-1) and corrigendum (Annexure R-2). Learned counsel further contended that in the advertisement (Annexure P-1) it was clearly mentioned that the candidate should ensure that he / she fulfills eligibility and other norms mentioned in

the advertisement and particulars furnished in the application form should be correct in all respect and if any false or incorrect information is furnished by the candidate, his /her candidature will be cancelled without prejudice to take legal action against such candidate. The counsel for the appellants further contended that in the present case the candidate did not comply with the aforesaid mandatory conditions as were detailed in advertisement and corrigendum. The learned counsel for the appellants further argued that as the candidate failed to furnish the requisite certificates in time, his candidature was rightly cancelled by the authorities. While summing up her arguments, the counsel for the appellants prayed that the present appeal be accepted.

We have considered the submissions made by learned counsel for the appellant.

The respondent No.1 (petitioner therein) filed writ petition challenging rejection of his candidature for the post of Tradesman Mate in Indian Navy, pursuant to an advertisement (Annexure P-1), for not providing in time the requisite caste certificate to claim benefit of OBC category. As per respondent No.1 (petitioner therein), he was neither informed nor otherwise called to render any explanation in this regard.

Admittedly, before rejection of his candidature, respondent No.1 (petitioner therein) was issued an admit card pursuant to his application and he appeared in the written examination and secured 86 marks as against 75 marks secured by the last selected candidate in OBC category. As per the advertisement (Annexure P-1), there was to be no interview for the post.

Before the final selection, the documents of the candidates, qualified in the written examination, were to be verified followed by the medical examination.

The essential qualifications for the post of Tradesman Mate as detailed in advertisement (Annexure P-1), were 10th standard passed from a recognized Board / Institute and certificate from a recognized training institute (ITI). The last date for online submission of applications was 15th March, 2019. Respondent No.1 has placed on record copies of certificates regarding his educational qualification. Undisputedly, respondent No.1 furnished his matriculation certificate along with the application form. He also filed copy of his other education certificates which are (Annexure P-8 to P-10), from the perusal of the same it is *prima facie* reflected that he passed his matriculation examination in June, 2013 and ITI course in trade of Electrician in July, 2018. It means that respondent No.1 was eligible to appear in the examination for the post of Tradesman Mate, subject to verification of his education certificates. The copy of the application form submitted by respondent No.1 is Annexure R-3, which has been relied upon by the appellants. From the perusal of the same, it is clear that the candidate gave correct particulars of his educational qualification i.e. matriculation and ITI, in the said application form. After going through the said application form (Annexure R-3), it also appears that the candidate also uploaded his matriculation certificate, ITI certificate and caste certificate and certificate of declaration being OBC candidate, along with the application form. It also transpires that respondent No.1 declared himself to be belonging to OBC

category in his application form (Annexure R-3). In this backdrop it stands established that respondent No.1 was apparently eligible to apply for the post of Tradesman Mate pursuant to advertisement (Annexure P-1). It being so, there was no reason for the respondent No.1 to withhold his ITI certificate at the time of submission of application form (Annexure R-3). So, the contention raised by the appellants that his candidature was rejected for want of ITI certificate does not hold water and is hereby rejected.

The other contention raised by the appellants is that the candidature of respondent No.1 was also rejected for want of valid OBC certificate. Admittedly, the application form of the candidate was supported by Backward Class Certificate dated 12.2.2014 (Annexure R-5). However, the same was valid only for a period of 3 years and as such, its validity expired by the time the application form was submitted by respondent No.1. Respondent No.1 has placed reliance on fresh OBC Certificate dated 11.3.2017 (Annexure P-11) to establish that even at the time of submission of application form he belonged to OBC category and was eligible to apply for the post of Tradesman Mate in Indian Navy under the said category.

While considering such matters, one has to keep in mind the objectives behind the reservations of posts for SC, ST and OBC categories as per Constitutional mandate. The Constitution of India has authorized the Government to make special provisions for persons belonging to aforesaid categories, to remove social and economical inequality to make equal opportunities available in reality. Social and economic justice is a right enshrined for protection of society. The Hon'ble Apex Court in **Ram**

Kumar Gijroya's case (supra) reiterated that the object of providing reservation to the SC/ST, educationally and socially backward classes of the society is to remove inequality in public employment, as candidates belonging to these categories are unable to compete with the candidates belonging to the general category as a result of facing centuries of oppression and deprivation of opportunity. In this background, the Hon'ble Apex Court set aside the order passed by the Division Bench of the High Court and upheld order passed by the learned Single Judge directing the respondents to accept the OBC certificate of the appellants which they submitted after the last date mentioned in the advertisement.

In the light of the above, we are of the view that in the instant case, the learned Single Judge rightly held that the candidature of respondent No.1 should be considered for appointment to the post of Tradesman Mate in accordance with his merit in OBC category subject to fulfillment of other parameters by him. Needless to say that the same is subject to verification of all his requisite certificates.

Consequently, the present appeal is hereby dismissed being devoid of merits. Let the needful be done by the authorities concerned preferably within a period of next three months.

Pending application(s), if any, stands disposed of accordingly.

4.10.2021
Gaurav Sorot

(RAJAN GUPTA)
JUDGE

Whether reasoned / speaking?
Whether reportable?

(KARAMJIT SINGH)
JUDGE

Yes / No
Yes / No