

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4611 of 2021

=====

Anay Kumar Jaiswal, S/o Shanti Ranjan Jaiswal, R/o Durga Mandir Bundu,
Bundu, Bundu, Ranchi, Jharkhand-835204.

... .. Petitioner/s

Versus

1. Bank of India through its Chairperson, Bandra Kurla Complex, Mumbai, Maharashtra-400051.
2. Chief Manager, Bank of India, Head Office, R. Block Chauraha, Near Chankya Hotel Chankya Tower, Patna, Bihar 800001.
3. Chief Manager, Human Resources, Bank of India, Zonal Office, Devdoot Bhawan, R.R. Sinha Road, Bhagalpur, Bihar-812001.
4. Disability Commissioner, Government of Jharkhand.
5. Disability Commissioner, Government of Bihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar Singh, Advocate
For the Respondent-Bank:		Mr. Ajay Kumar Sinha, Senior Advocate
		Mr. Ajit Kumar Sinha, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 09-05-2022

Heard learned counsels for the parties.

In the instant petition, petitioner has prayed for
following reliefs:-

“1. That the present Writ
petition is being filed before this Hon’ble
High Court under Article 226 of the
Constitution of India for the following
reliefs:

A. For the issuance of
appropriate writ of Mandamus or
any other or appropriate writ(s) or
order(s) or direction(s)
commanding the Respondent
Authority to accept the candidature
of Petitioner under the disabilities



category and confirm the appointment on the post of Clerk as he is 100% visually impaired and met the cut off marks

B. For the issuance of appropriate writ of Mandamus or any other or appropriate writ(s) or order(s) or direction(s) commanding the Respondent Authority to extend benefits of SC/STs category to the Petitioner, in compliance of order in Anmol Bhandari vs Delhi Technological University, WP(C) 4853 of 2012 which stipulates that the PWD candidates are entitled to same treatment as SC/ST candidates and thereby appoint the Petitioner on the post Clerk.

C. For the issuance of appropriate writ of Mandamus or any other or appropriate writ(s) or order(s) or direction(s) commanding the Respondent Authority to reserve one seat for the present petitioner who is a deserving candidate from the notification under consideration till the disposal of the present writ application.

AND/OR

D. Pass any such order or direction which may deem fit to this Hon'ble Court in the best interest of the petitioner."

Petitioner is a candidate for recruitment to the post of Clerk (CRP Clerks-IX for vacancies of the year 2020). Pursuant to the notice issued by the Institute of Banking



Personnel Selection (IBPS) dated 12.09.2019, petitioner had submitted application through online claiming under OBC category read with reservation under disability that he is suffering from 100% blindness (visuality). The Respondent-selecting authority have not considered the petitioner's candidature even though petitioner has secured more marks than the last selected candidate under general merit. The petitioner has secured 63% marks whereas the last selected candidate has secured 45.38% marks under general category. Reasons for rejection of petitioner's candidature is that petitioner who had furnished OBC certificate dated 24.12.2019 issued by the office of the Circle Officer, Ranchi (Jharkhand) with reference to Caste "Baniya/ Jaiswal" which has not been recognized as OBC category under the Central Government. In other words, petitioner's OBC certificate dated 24.12.2019 is restricted to particular State, like Jharkhand. Candidates have been instructed how to fill up applications in the advertisement. Para 'F' at page 26 of the writ petition reads as under:

"A candidate belonging to reserved category, selected on the basis of norms as applicable to General Category, will be treated at par with a General candidate. Such own merit candidates belonging to reserved categories who are provisionally allotted under unreserved (General) category will not be adjusted



against a reserved post. However their original category as registered in the online registration will remain unchanged.”

Further at page 27 of the petition it has been instructed as under:-

“List of Documents to be produced at the time of joining (as applicable)

The following documents in original and self-arrested photocopies in support of the candidate’s eligibility and identity are to be invariably submitted at the time of joining

(i) Valid system generated printout of the online application form registered for CRP Clerks-IX.

(ii) Proof of Date of Birth (Birth Certificate issued by the Competent Municipal Authorities or SSLC/Std. X Certificate with DOB)

(iii) Photo Identity Proof as indicated in Point F of the advertisement

(iv) Mark-sheets & certificates for Graduation or equivalent qualification etc. Proper document from Board/ University for having declared the result on or before 09.10.2019 has to be submitted

(v) Caste Certificate issued by the competent authority in the prescribed format as stipulated by Government of India in the case of SC/ST/OBC category candidates.

Candidates belonging to OBC category but coming under creamy layer and/or if their caste does not find place in the Central List are not entitled to OBC reservation. They should indicate their category as General in the online application form.” (underline supplied)

Further at page 33 para ‘N’ reads as under:

DISCLAIMER



Instances for providing incorrect information and/or process violation by a candidate detected at any stage of the selection process will lead to disqualification of the candidate from the selection process and he/she will not be allowed to appear in any of the Common Recruitment Process in the future. If such instances go undetected during the current selection process but are detected subsequently, such disqualification will take place with retrospective effect. Clarifications/decisions given/ to be given by the Director, IBPS, regarding process for recruitment of Clerks in Participating Organisations (CRP CLERKS-IX) shall be final and binding.”

In the light of aforesaid instructions to the candidate, petitioner has falsely claimed under OBC category read with visual disability.

Learned counsel for the petitioner vehemently contended that if the petitioner's OBC certificate is not applicable to the recruitment in that event petitioner's case is required to be considered under general merit category in the light of instruction cited (supra).

Per contra, learned counsel for respondent -Bank resisted the aforesaid contention and submitted that petitioner's claim with reference to Clause- F of the advertisement, he is not entitled for the reasons that petitioner had claimed OBC reservation even though OBC certificate issued in favour of the petitioner is not identified under Central Government's OBC



list and it is not disputed by the learned counsel for the petitioner. It is further submitted that petitioner has violated Clause (v) and para 'N' of the aforesaid instructions to the candidates.

Heard learned counsels for respective parties.

Crux of the matter in the present petition is whether petitioner could be treated as general category candidate for the selection and appointment to the post of clerk with the Respondent-Bank or not? Undisputed facts are that petitioner's claim is under OBC category read with 100% visuality (blindness). It is also not disputed that petitioner has secured 63% marks whereas last selected candidate under general category has secured 45.38% marks. The petitioner has violated the instruction given to the candidate in particularly clause -v of the list of documents to be produced at the time of joining read with clause 'N' cited (supra).

In the light of these facts and circumstances, question of treating the petitioner as general merit category is not warranted for the reasons that petitioner has violated the instructions given to the candidates, in particularly, claiming particular reservation and so also for giving incorrect information to the Respondent-Bank in the application form



and the same cannot be altered in the light of specific instructions to the candidate vide advertisement cited supra.

Accordingly, the present petition stands dismissed.

At this stage, learned counsel for the petitioner has cited a decision in respect of treating the petitioner as a general category person, namely, ***Union of India & Others Vs. M. Selvakumar and another*** reported in ***(2017) 3 SCC 504***. The aforesaid decision is not applicable to the case in hand for the reasons that candidates have been given clear instruction in respect of claiming reservation cited (supra). It is also in para 'N' of the advertisement. It is made clear that if any false information given, in such event candidature would not be considered. In the present case, petitioner knowingly or unknowingly claimed OBC category which is not identified under Central Government. In fact, candidates have been given instruction in respect of reservation category which were required to be produced with reference to the Central Government notification.

Apex Court in the case of ***Nair Service Society Vs. Dr. T. Beermasthan & Ors.*** reported in ***(2009) 5 SCC 545*** at para 48 held as under:



“48. Several decisions have been cited before us by the respondents, but it is well established that judgments in service jurisprudence should be understood with reference to the particular service rules in the State governing that field. Reservation provisions are enabling provisions, and different State Governments can have different methods of reservation. There is no challenge to the Rules, and what is challenged is in the matter of application alone. In our opinion the communal rotation has to be applied taking 20 vacancies as a block.”

In the light of Apex Court’s decision rendered in the case of ***Nair Service Society Vs. Dr. T. Beermasthan & Ors.*** reported in ***(2009) 5 SCC 545***, petitioner is bound by the candidature instructions cited supra and petitioner has not questioned the validity of the aforesaid instructions to the extent that candidature claim is to be considered under general category if reservation category is not permissible. As long as candidature instructions are intact, both authority and candidates are bound by the clauses mentioned in the advertisement. Accordingly, aforesaid contention of the petitioner is hereby rejected.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.05.2022
Transmission Date	

