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20.12.2022  
(sanjay)  
Ct 21

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 9598 of 2022**

Barjahan Shaikh

Vs.

Punjab National Bank & Ors.

Mr. Shamim Ul Bari,

Mr. Atarul Hoque Molla

.... For the petitioner.

Ms. Parna Roy Chowdhury...For the Bank.

Mr. Dipanjan Datta,

Mr. Sayan Datta,

Mr. Subhojit Chowdhury

...For the respondent no. 4.

The petitioner applied for recruitment in the clerical cadre for the year 2021-2022. The said selection was conducted by Institute of Banking Personnel Selection (in short, IBPS). One of the participating banks was the Punjab National Bank (in short, PNB). The petitioner applied in the reserved category of other backward classes (in short, OBC), in the ex-serviceman category. The petitioner obtained 47.25 per cent.

At the time of processing all the documents and scrutiny of the same, the bank found the caste name appearing in the OBC certificate produced by the petitioner does not find place in the Central Government list of OBC candidates. The petitioner was given opportunity to produce a valid OBC certificate by the bank. Since the petitioner was not able to produce OBC

certificate acceptable to the bank as per the Central Government list, the petitioner's candidature was cancelled vide electronic mail dated October 20, 2021. The petitioner made a request on October 25, 2021 to extend the time for producing an OBC certificate as per the bank's requirement.

The petitioner's grievance is that in the event, the petitioner was not considered in the reserved category as an OBC candidate, the petitioner's candidature should have been considered in the general category as an ex-serviceman.

Mr. Bari, learned counsel appearing on behalf of the petitioner submits that the last candidate in the general (Ex-serviceman) category obtained 46.50 per cent which was lower than the mark obtained by the petitioner which was 47.50 per cent. Therefore, the petitioner was arbitrarily not recruited by the bank. The petitioner has been discriminated against.

Ms. Roy Chowdhury, learned counsel appearing on behalf of the bank submits that the petitioner was unable to produce the OBC certificate as per the requirement of the bank since his caste name did not appear in the Central Government list. There was no provision for considering the candidature of the petitioner in the general (Ex-serviceman) category nor did the petitioner pray for the same. Therefore, no illegality has been

committed on the part of the respondent bank by not considering the candidature of the petitioner in general (Ex-servicemen) category.

Mr. Datta, learned counsel appears on behalf of the respondent no.4.

Having considered the rival submission of the parties and the materials placed on record, this Court finds that the last candidate in the general (Ex-serviceman) category scored below the marks scored by the petitioner. Therefore, there was no reason not to consider the candidature of the petitioner in the general (Ex-serviceman) category.

However, the petitioner did not make any representation before the bank to be considered in the general (Ex-serviceman) category. Since the petitioner has scored more than the last candidate in the general (Ex-serviceman) category, this Court allows the petitioner to make a fresh representation before the bank/ PNB for consideration of his recruitment in the clerical position in the general (Ex-serviceman) category.

In the event, the representation is made by the petitioner within two weeks from date, personal hearing will be given to the petitioner within four weeks of the date of representation for consideration of the same. The said representation will be disposed of by a reasoned

order which will be communicated to the petitioner within two weeks of passing thereof.

Since it is submitted that fresh selection process is going on for recruitment in the clerical cadre, it is expected that one post will be kept vacant in the said category in the concerned bank i.e. PNB, till the disposal of the petitioner's representation by the bank, in the event such representation is made within two weeks from date.

With the aforesaid directions, the writ petition, being **WPA 9598 of 2022**, is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

**(Lapita Banerji, J.)**