

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

123

CWP-11501-2023

Date of Decision : 06.09.2023

Ajay

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Jagjeet Beniwal, Advocate
for the petitioner.

Ms. Anita Balyan, Advocate
for the respondents-UOI.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside of result dated 15.05.2023 (Annexure P-9) whereby application of the petitioner for the post of Navik (Domestic Branch) has been rejected on the ground of submissions of OBC certificate at a later stage.

2. The petitioner pursuant to advertisement filed an application for the post of Navik (Domestic Branch). The petitioner cleared Stage-I examination and thereafter uploaded documents for Stage-II examination. The documents included matriculation as well as OBC certificate. The petitioner appeared for physical fitness test on 09.01.2023. The petitioner was declared successful candidate. The application of the petitioner came to be rejected at the stage of verification of documents on the ground that OBC certificate furnished by the petitioner is post date of application.

3. Learned counsel for the petitioner submits that the petitioner was having OBC certificate dated 12.05.2016 as well as OBC certificate dated 28.12.2022. At the time of uploading, he uploaded certificate dated 28.12.2022, however, at the time of verification of documents, both the documents were produced. The candidature of the petitioner could not be rejected simply on the ground that uploaded OBC certificate was post date of application. The case of the petitioner is squarely covered by Division Bench judgment of this Court in **Union of India vs. Monika and another, 2018 (2) S.C.T. 104.** A Division Bench of this Court in **Monika's case (supra)** has dismissed writ petition filed by the Union of India against judgment of Central Administrative Tribunal, Chandigarh. Division Bench relying upon judgment of Hon'ble Supreme Court in **Ram Kumar Gijroya vs. Delhi Subordinate Services Selection Board & Anr., 2016(4) SCC 754** has held that application of a candidate cannot be rejected simply on the ground that OBC certificate is post last date of application.

4. On being confronted with aforesaid judgment, learned counsel for the respondents expressed her inability to controvert the same.

5. I have heard the learned counsel for the parties and perused the record.

6. From the perusal of record, it comes out that the petitioner at the time of verification of the documents submitted two OBC certificates. One was dated prior to date of application and another was post date of application. A Division Bench of this Court relying upon the judgment of Hon'ble Supreme Court has settled the issue. The relevant extracts of the judgment read as :

6. *The Apex Court in **Ram Kumar Gijroya's case***

(supra), was examining identical issue where the OBC certificate was not submitted along with the application, but filed after the last date mentioned in the advertisement. It was held that the candidature of those candidates, who belonged to the reserved categories, could not be rejected simply on account of late submission of the caste certificate. Relevant paragraphs of the judgment rendered in **Ram Kumar Gijroya's case (supra)**, reads thus:

“3. The important question of law to be decided in these appeals is whether a candidate who appears in an examination under the O.B.C. category and submits the certificate after the last date mentioned in the advertisement is eligible for selection to the post under the O.B.C. category or not.

14. The Division Bench of the High Court erred in not considering the decision rendered in the case of Pushpa (*supra*). In that case, the learned single Judge of the High Court had rightly held that the petitioners therein were entitled to submit the O.B.C. certificate before the provisional selection list was published to claim the benefit of the reservation of O.B.C. category. The learned single judge correctly examined the entire situation not in a pedantic manner but in the backdrop of the object of reservations made to the reserved categories, and keeping in view the law laid down by a Constitution Bench of this Court in the case of Indra Sawhney v. Union of India, 1992 (Supp) 3 SCC 217 as well as Valsamma Paul v. Cochin University & Ors., (1996) 3 SCC 545. The learned single Judge in the case of Pushpa (*supra*) also considered another judgment of Delhi High

Court, in the case of Tej Pal Singh (supra), wherein the Delhi High Court had already taken the view that the candidature of those candidates who belonged to the S.C. and S.T. categories could not be rejected simply on account of the late submission of caste certificate.

16. In our considered view, the decision rendered in the case of Pushpa (supra) is in conformity with the position of law laid down by this Court, which have been referred to supra. The Division Bench of the High Court erred in reversing the judgment and order passed by the learned single Judge, without noticing the binding precedent on the question laid down by the Constitution Benches of this Court in the cases of Indra Sawhney and Valsamma Paul (supra) wherein this Court after interpretation of Articles 14,15,16 and 39A of the Directive Principles of State Policy held that the object of providing reservation to the SC/ST and 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. The constitutional concept of reservation envisaged in the Preamble of the Constitution as well as Articles 14, 15, 16 and 39A of the Directive Principles of State Policy is to achieve the concept of giving equal opportunity to all sections of the society. The Division Bench, thus, erred in reversing the judgment and order passed by the learned single Judge. Hence, the impugned judgment and order

passed by the Division Bench in the Letters Patent Appeal No. 562 of 2011 is not only erroneous but also suffers from error in law as it has failed to follow the binding precedent of the judgments of this Court in the cases of Indra Sawhney and Valsamma Paul (supra). Therefore, the impugned judgment and order passed by the Division Bench of the High Court is liable to be set aside and accordingly set aside. The judgment and order dated 24.11.2010 passed by the learned single Judge in W.P. (C) No. 382 of 2009 is hereby restored.”

7. *Following aforementioned dictum, Division Bench of this Court in CWP No.16893 of 2015 (Union of India and others Versus Dharambir and others), decided on 3.11.2016 reiterated the earlier view. The relevant part of the same read thus:-*

“3. Being aggrieved by the order dated 29.01.2015 (Annexure P-4), the petitioner has filed the present writ petition under Articles 226/227 of the Constitution of India, for setting aside the order Annexure P-4 passed by the CAT whereby the order dated 18/19.02.2014 (Annexure A-1) was quashed.

4. We have heard learned counsel for the parties and carefully gone through the record.

*5. At the outset, learned counsel for respondent No. 1 had pointed out that the present case is squarely covered by the judgment of Apex Court in **Ram Kumar Gijroya Vs. Delhi Subordinate Services Selection Board and another, 2016(4) SCC 754.***

6. The sole question which requires determination by this Court in the present case is whether a

candidate who was not having a valid caste certificate and by giving a wrong declaration that he was having a valid certificate on the basis of which he was selected, but later on it was found that on the cut off date he was not having any valid caste certificate can still be considered eligible?

*7. The aforesaid question has been dealt with by the Apex Court in **Ram Kumar Gijroya's case (supra)**. The Apex Court referring to the decision of High Court of Delhi in **Pushpa Vs. Government of NCT of Delhi and others**, decided on 11.02.2009 held that the candidature of those candidates who belonged to the reserved categories could not be rejected simply on account of the late submission of caste certificate. 8. Since, it is not disputed that the controversy involved in the present petition has been set at rest by the Apex Court in **Ram Kumar Gijroya's case (supra)** and this fact has also not been disputed by learned counsel for the petitioners, we do not find any merit in these petitions and dismiss both the writ petitions (CWP Nos. 16893 and 17425-2015)."*

8. In view of the above, the candidature of the candidates, who belonged to the reserved category could not be rejected simply on account of late submission of the caste certificate by them. Resultantly, we do not find any merit in the present writ petition. The same stands dismissed.

7. Learned counsel for the respondents is unable to controvert the applicability of the aforesaid judgment to the present case.

8. In the wake of aforesaid facts and judgment of a Division Bench of this Court, the present petition deserves to be allowed and

accordingly allowed. The impugned order dated 15.05.2023 (Annexure

P-9) is hereby set aside and the respondents are directed to re-consider the case of the petitioner in terms of afore-cited judgment of this Court.

06.09.2023
anju

(**JAGMOHAN BANSAL**)
JUDGE

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>