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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 06.03.2024*

+ W.P.(C) 3405/2024

DELHI SUBORDINATE SERVICES SELECTION BOARD

..... Petitioner

Through: Mr. Gaurav Dhingra, Advocate.

versus

SHEEBA

..... Respondent

Through:

CORAM:**HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE RAJNISH BHATNAGAR****REKHA PALLI, J (ORAL)****CM APPL. 13917/2024 (Ex.)**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 3405/2024 & CM APPL. 13918/2024 (Stay)

3. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 08.01.2024 passed by the learned Central Administrative Tribunal (the learned Tribunal) in O.A. 1765/2019. Vide the impugned order, the learned Tribunal has allowed the original application filed by the respondent by directing the petitioner to consider her candidature as an OBC candidate based on the certificate dated 12.07.2011 furnished by her.
4. Upon an advertisement being issued on 15.09.2017, the respondent, who belonged to the Teli community, applied for selection



to the post of teacher (Primary) under the OBC category with the Municipal Corporation of Delhi. The respondent appeared in the said examination and was shortlisted for the post of Teacher (Primary) under the OBC category. Upon scrutiny of her documents, it was found that the OBC certificate dated 12.07.2011 uploaded by her was, according to the petitioner, was valid only for appointment under the Central Government posts and not for employment under the Govt. of NCT of Delhi. Consequently, she was granted opportunity to upload an OBC certificate valid for appointment under Govt. of NCT of Delhi. In the light of this objection, the respondent once again approached the revenue department of the petitioner and was issued a certificate valid for appointment under the Govt. of NCT of Delhi on 09.04.2019. The respondent's candidature was, however, rejected on the ground that the said certificate having been issued after the cutoff date, i.e., 15.09.2017, was not in terms of the advertisement.

5. Being aggrieved, the respondent approached the learned Tribunal by way of O.A. No. 1765/2019, which has been allowed by the learned Tribunal on 30.05.2019. It is in these circumstances that the present writ petition has been filed by the DSSSB, which was the respondent before the learned Tribunal.

6. In support of the petition, Mr. Gaurav Dhingra, learned counsel for the petitioner, submits that the impugned order is liable to be set aside as the learned Tribunal has failed to appreciate that even though the respondent possessed an OBC certificate valid for appointment under the Govt. of NCT of Delhi, the same had been issued much after the cut-off date. Consequently, the petitioner was justified in rejecting



her candidature on the basis of the earlier OBC certificate dated 12.07.2011 which was valid only for appointment under the Central Government. By placing reliance on the decision of the Apex Court in *Ashok Kumar Sharma vs. Chander Shekhar (1997) 4 SCC 18*, he submits that a candidate is required to fulfill the eligibility conditions for appointment to a post on the cut-off date, which, he contends, is sacrosanct and must be strictly adhered to. He further submits that a candidate must exercise due diligence in uploading all the requisite documents as a part of the application process and in case a candidate is negligent in uploading/furnishing his/her documents, he/she cannot claim reconsideration of his/her candidature after submitting the correct document. In support of his plea, he seeks to place reliance on the decision of the Apex Court in *Union Public Service Commission vs. Gaurav Singh & Ors. (2022) SCC Online SC 2116*, He, therefore, urges that the respondent having submitted the valid certificate only on 09.04.2019, i.e., much after the cut-off date, her candidature was rightly rejected. He, therefore, prays that the writ petition be allowed and the impugned order be set aside.

7. Having considered the submissions of the learned counsel for the petitioner and perused the record, we may begin by noting hereinbelow the relevant extracts of the impugned order as contained in para nos. 8 to 10 thereof:

“8. None of the facts of the case are disputed. On the relevant date, the applicant was in possession of OBC certificate which was issued to her on 12.07.2011. This is the certificate she has uploaded in her dossier. This certificate mentions her caste as Teli which is a recognized backward class in terms of relevant resolution of Government of India. No doubt, the title of the



certificate mentions that this certificate is for appointment to the posts reserved under the Government of India, it is a fact that Teli caste is a notified backward class for reservation of posts for OBC in Government of NCT of Delhi also. Therefore, even if the applicant has not submitted any subsequent certificate, in our considered view, once this certificate established the class of the applicant as OBC, it should have been enough to consider her candidature as an OBC category candidate for the post of Primary Teacher, of course, subject to her meeting all the other eligibility criteria set forth in the relevant rules. We are not giving much credence either way to the judgment passed in OA No. 2112/2022 as in our considered view, the facts and the merits of the present Original Application have sufficient strength of their own.

9. There being absolutely no doubt with respect to the fact that the applicant belongs to OBC category and on the particular relevant date, she possessed an OBC certificate, the grounds for not considering such a certificate appear to be too rigid and hyper technical.

10. Therefore, the present Original Application stands allowed. The respondent is directed to revive the candidature of the applicant and subject to her meeting all the other eligibility criteria, forward her dossier/case along with the recommendation to the appropriate user department/agency of the Government of NCT of Delhi.”

8. From a perusal of the aforesaid findings of the learned Tribunal, we find that the respondent's original application has been allowed only after taking into account the petitioner's specific admission that the Teli community to which the respondent belongs was, since 1995 itself, recognized as an OBC for the purposes of appointment under the Govt. of NCT of Delhi. In the light of this categorical admission made by the petitioner, it is evident that from the certificate furnished by the respondent along with her application it was clear that she belonged to a community which was recognized as OBC



by the Govt. of NCT of Delhi. In our considered view, from the certificate dated 12.07.2011 furnished by the respondent along with her application, once it emerged that she belonged to the Teli community, the petitioner could not reject her candidature.

9. In the light of the aforesaid, we find absolutely no reason to interfere with the impugned order. The learned Tribunal, in our considered view, was justified in holding that all that the respondent was obliged to show as on the cut-off date was that she was an OBC category candidate recognized for appointment under the Govt. of NCT of Delhi and belonged to the non-creamy layer. Merely because the Deputy Commissioner of the petitioner while issuing the certificate in favour of the respondent stated therein that the certificate was being issued for the purpose of employment under the Government of India would not change the fact that she belonged to the Teli community, which as per the own case of the petitioner was recognized as an OBC community for employment under the list maintained by the Govt. of NCT of Delhi.

10. We have also perused the decisions in *Ashok Kumar Sharma & Ors. v. Chander Shekhar And Another* (1997) 4 SCC 18, and *Union Public Service Commission (UPSC) v. Gaurav Singh and Ors.* 2022 SCC OnLine SC 2116, relied upon by the petitioner but find that none of them are applicable to the facts of the present case. In *Ashok Kumar Sharma (supra)*, the Apex Court held that the eligibility of all candidates has to be adjudged with reference to the cut-off date. There can be no quarrel with this proposition; however, as noted hereinabove the petitioner itself did not deny that the community to which the



respondent belongs, was recognized as an OBC community under the list maintained by the Govt. of NCT of Delhi as on the date of advertisement. This judgment, therefore, would not forward the case of the petitioner.

11. Similarly, in *UPSC (supra)*, the Apex Court was dealing with a situation where the candidates were required to submit their certificates for the relevant financial years to show their eligibility under the EWS category. It was, in these circumstances, that the Apex Court held that it was necessary for the candidate to provide the certificate for the relevant year as prescribed in the advertisement. In the present case, nothing has been urged before us to show that the respondent was required to file a certificate issued in any particular form or year and, therefore, the only question, as rightly observed by the learned Tribunal, was to examine as to whether the respondent belonged to an OBC community as per the list maintained by the Govt. of NCT of Delhi on the date of advertisement, which we find the petitioner itself does not deny.

12. In the light of the aforesaid, we find no reason to interfere with the impugned order. The writ petition, being meritless, is, accordingly, dismissed with all accompanying applications.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

MARCH 6, 2024/ib