



2024:DHC:6791-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 02nd September, 2024***

+ **W.P.(C) 12129/2024 and CM APPL. 50456-50457/2024**

UPSC

.....Petitioner

Through: **Mr. Ravinder Agarwal,**
Advocate

Versus

SHUBHAM SHARMA

.....Respondent

Through: **Mr. Saaket Jain, Ms. Shivangi**
Anand and Mr. Parth Taran
Singh, Advocates

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T (oral)

1. The petitioner is aggrieved by the order dated 15.12.2023 passed by the Ld. Central Administrative Tribunal, Principal Bench (the Tribunal) in OA No. 475 of 2023 and order dated 22.04.2024 in RA No. 33 of 2024, whereby the petitioner has been directed to get the Economically Weaker Section certificate (EWS) submitted by the respondent verified by the issuing authority.

2. Notice.

3. Mr.Saket Jain, Advocate, appearing on behalf of the respondent accepts notice.



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4. With the consent of learned counsel representing both the sides, the present petition is taken up for final hearing.

5. The brief background of the case is that the respondent preferred O.A.475/2023 before the learned Tribunal in the background of the fact that the petitioner, vide examination notice No.02/2022 – GOEL invited, application for the Combined Geo-Scientist Examination 2022. The respondent applied for the post of Scientist ‘B’ (Hydrogeology) and Geologist in The Economically Weaker Section category. The candidates, who qualify the examination were required to fill a detailed application form (DAF) and upload scanned copies of their certificates including caste/EWS certificates, which were to be scrutinized by the Commission after declaration of the result of the Mains Examination.

6. The respondent averred before the learned Tribunal that while submitting his application, he had mentioned his category as ‘EWS’ and also submitted a certificate as a proof thereof. However, petitioner-UPSC vide communication dated 10.10.2022 informed him that he was being considered in the ‘unreserved category’ only for the post of Geologist, as UPSC had not accepted his status as a candidate belonging to EWS category. The aforesaid communication dated 10.10.2022 sent by the UPSC declared that no further correspondence on the subject would be entertained.

7. The petitioner, thus, approached the concerned revenue authorities to seek clarification in respect of Financial Year 2020-2021 mentioning his income. Thereafter, he preferred a representation dated 25.10.2022 to the petitioner, along with clarification given by the revenue authorities in



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respect of EWS certificate issued to him. The respondent, thus, prayed before the learned Tribunal to direct the petitioner- UPSC to treat him as a EWS candidate in terms of clarification dated 25.10.2022 given by the concerned *Tehsildar*.

8. The stand of the petitioner in its counter affidavit filed before the learned Tribunal was that the certificate submitted by the respondent did not mention Financial Year 2020-2021 and having mentioned as '2021' assumption could not be drawn that it pertained to the year 2020-2021.

9. Learned Tribunal vide impugned judgment dated 15.12.2023 held that a discriminatory treatment has been meted out to the respondent, as in the same result, 28 candidates were declared successful as provisional candidates and they were given an opportunity to produce documents, while no such opportunity was extended to the respondent. The Tribunal, thus, vide impugned order directed the petitioner to get verified the Economically Weaker Section certificate (EWS) from the issuing authority submitted by the respondent.

10. Being aggrieved, the petitioner has filed the present petition on the ground that the impugned judgment is totally perverse and contrary to the settled principles of law. Reliance is placed upon decision of ***Union Public Services Commission Vs. Gaurav Singh*** (2024) 2 SCC 605 wherein the candidature of the petitioner therein under EWS category was cancelled for the reason that their Income and Assets Certificates was not in order. The applicant therein was permitted to appear for the interview as general category candidates. Even in the present case, the respondent was permitted



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to appear in the personality test as a general category candidate, for the post of Geologist.

11. Learned counsel for the petitioner has submitted that 28 candidates who were selected provisionally had trivial nature of deficiencies in their case, which did not connect to the root of their eligibility and so, the finding of the learned Tribunal that 28 candidates were permitted to clear the deficiencies and not the respondent, is perverse and contrary to law.

12. Learned counsel further submits that two other candidates having Roll Nos. 0890424 and 0891688, whose I&AC also referred to the income of the calendar year, instead of the financial year, their candidature as EWS candidates was also cancelled. Thus, all candidates were treated equally.

13. To the contrary, learned counsel appearing on behalf of the respondent has supported the impugned judgment while submitting that it suffers with no infirmity and calls for no interference by this Court.

14. Upon hearing learned counsel for the parties and on perusal of the impugned judgment, we find that the learned Tribunal vide impugned order dated 15.12.2023 has directed the petitioner-UPSC to verify and consider EWS certificate of respondent, which relates back to 06.08.2021.

15. Even if the submission of petitioner to the effect that the candidature 28 candidates was kept provisional and was subject to verification of their original documents and they were not permitted to make good the deficiencies; is accepted by this Court, the fact remains that out of those 28 candidates, 08 candidates belonged to EWS category and they were not made a party by the respondent. Under what circumstances and to what



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extent, those 08 candidates were permitted to make good the deficiencies, is not spelt out in the impugned judgment.

16. In view of the above, we hereby remand the matter back to the learned Tribunal, with direction to the respondent to implead selected candidates in the O.A. and the learned tribunal shall hear and decide the matter afresh, without being influenced from order dated 15.12.2023 passed in O.A. 475/2023.

17. Accordingly, parties are directed to appear before the learned Tribunal on 10.09.2024 for further proceedings.

18. With directions as aforesaid, the present petition and pending applications are accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

(GIRISH KATHPALIA)
JUDGE

SEPTEMBER 02, 2024

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