

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9905 OF 2024**

Abhijeet Rajendra Sangle

.. Petitioner

Vs.

Union of India & Ors.

.. Respondents

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Mr. Alankar Kirpekar a/w Mr. Sagar Kasar, Mr. Ayush Tiwari, Mr. Amol Wagh, Ms. Chaitali Bhogle i/by Sagar Kasar, Advocates for the Petitioner.

Mr. Dashrath Dube and Ms. Smita Thakur a/w Ateeba Hasan i/by Mr. Suresh Kumar, Advocates for Respondent No.1-UoI.

Mr. Vicky Nagrani, Advocate for Respondent No.6.

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**CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.**

DATE : 12th MARCH 2026.

P.C. :

Aggrieved by the order dated 6th March 2024 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai (for short, Tribunal) in Original Application No. 496 of 2018, the petitioner who applied for the posts of Storekeeper and Superintendent (Store) and finally got selected for the post of Storekeeper has approached this Court primarily on the ground that the respondent no.6 was not falling under the Non-creamy layer and wrongly appointed to the post of Superintendent (Store).

2. The petitioner states that an advertisement was issued by the Indian Air Force-respondent no.3 in the Employment Newspaper in the week of 18th to 24th February 2017 for various posts such as Safaiwala, Carpenter, MTS, Storekeeper, Superintendent (Store) etc. The petitioner along with the respondent no.6 applied for the post of

Superintendent (Store). On 10th June 2017, a written examination was conducted and the petitioner was shortlisted in the said examination. There was only one post of the Superintendent (Store) reserved for the OBC category for which a selection list was prepared of ten candidates including the respondent no.6 at serial no.1 and the petitioner at serial no.4. According to the petitioner, the respondent no.6 is the only other eligible candidate but he did not produce the documents related to his caste at the time of filling up the examination form. The petitioner claims that without the caste and Non-creamy layer certificate, the respondent no.6 was not eligible to apply or even participate in the recruitment process.

3. Before the Tribunal, the respondent no.6 provided a Non-creamy layer certificate but after the results were declared. This is the case set up by the petitioner that the OBC candidates were required to produce Non-creamy layer certificate before the last date for making application. The relevant portions of the impugned order are reproduced hereinunder :-

“ 8. The O.A. is resisted by the official respondents and respondent No.6 by filing their counter affidavit. The official respondents relying upon the advertisement notification itself stated that only requirement in the advertisement was that "in case of OBC candidates applying for reserved uuta, teir caste should be listed under the Central List of OBCs". There was no requirement of the candidate to provide Non-Creamy Layer Certificate along with applications. Written examination was conducted and candidates were short listed. The short listed candidates were then directed to approach the respondents for the skill practical test which was held on 11.06.2017. Later the candidates were asked to provide the Non Creamy Layer Certificate.

9. Respondent No.6 provided his Non-Creamy Layer Certificate as and when asked for and, therefore, he was appointed. Respondent No.6 in his affidavit has stated that results were declared on 10.06.2017. Candidates were required to be present for skill practical test on 11.06.2017 which was also cleared by respondent No.6 and the following candidates were recommended :

"(i) Shri Sagar G Matre - Supdt (Store) SC

(ii) Shri Akash Ajay Thakur - Supdt (Store) OBC-

(iii) R-6 Shri Abhijeet R Sangle - Store Keeper OBC - App."

He further states that after conclusion of the skill test, he received a letter, after one month, directing to report on or before 18.08.2017 with the original documents. It is only when he received letter dated 17.07.2017 that he submitted his Non-Creamy Layer Certificate on 09.08.2017 with the respondents. Thereafter the respondents duly verified all the documents submitted by him and he was directed to go for medical examination vide letter dated 23.08.2017. After completion of medical, charter and antecedents verification an appointment letter was issued to him on 21.09.2017 and, therefore, he joined his service on that date. He, thus submits that at the time of joining he was in possession of Non-Creamy Layer Certificate on 08.08.2017 and, therefore, no illegality has been committed.

10. We have heard the learned counsel for the parties. The requirement normally under the law as generally seen is that the candidate should file all the copies of certificates along with application form. However, in the present advertisement we have noticed that there was no such requirement, the only requirement was that the candidate who is seeking reservation under the OBC should check that his caste is in the Central List or not. In fact even the cut off date was not prescribed, only 21 days was granted, for filling applications. The advertisement itself was published in the Employment News which is published on weekly basis. Therefore, it cannot be said that there is any fix cut off date. Three weeks from the week when the advertisement was published date, falls in middle of March and, therefore, we have considered 15th March as cut off date for filing of application. The respondents conducted the written examination. There is no dispute on that. The candidates were called for skill test, again there is no dispute and it is only after the candidates who were declared successful in the skill test that documents were sought. It is the prerogative of the employer to decide upon the procedure which he would like to undertake before giving the employment. The employment in the Government sector should be after wide publicity and after giving full opportunity to the candidates to compete and selection should be purely on merit. There is no dispute on these aspects.

11. There is no dispute that the applicant does belong to the OBC Non-Creamy Layer category. There is no dispute that the certificate pre-dates the offer of appointment and joining. Hence, we do not find any reason to intervene in the present case. "

4. The learned counsel for the petitioner refers to the certificate produced by the respondent no.6 a copy of which has been annexed at page no.188 of the paper-book and submitted that the respondent no.6 is not falling under Non-creamy layer OBC category as the total income for three years from 2014-2015, 2015-2016 and 2016-2017 is more than Rs.18 lakh. The respondent-Union of India has opposed the challenge laid by the petitioner to the appointment of respondent no.6 to the post of Superintendent (Store) on the ground that there was no requirement under the advertisement to produce a Non-creamy layer certificate. We also do not find any such condition in the advertisement issued on 18th February 2017 for the appointment of Superintendent (Store) and Storekeeper. It was only after the final results were published that the candidates were asked to produce a Non-creamy layer certificate but this fact itself shall not render the appointment of respondent no.6 invalid. The petitioner who accepted his appointment on the post of Storekeeper pursuant to the selection process challenged the appointment of respondent no.6 by filing Original Application No. 496 of 2018. The Tribunal, in our opinion, rightly declined to interfere in the matter. The petitioner nowhere states and produces any material to establish that he was ranked high on merits compared to the respondent no.6. The petitioner has also failed to produce any rules, guidelines, notifications etc. to demonstrate that the post of Superintendent (Store) advertised on 18th February 2017 was only for Non-creamy layer OBC candidates.

5. Writ Petition No. 9905 of 2024 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]