



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. No. 2112/2022

This the 25th day of August, 2023

Hon'ble Mr. Manish Garg, Member (J)
Hon'ble Dr. Anand S Khati, Member (A)

Tanisha Ansari
Aged about 21 years,
D/o late Saffiullah Ansari
R/o F-288/14, Hari Nagar Part-II, Jaitpur, Badarpur, New
Delhi- 110044
Mob. No. 8887927321
Post: Special Educator (Primary)
Post Code: 32/21
Group: B

...Applicant

(By Advocate : Mr. Anuj Aggarwal with Mr. Shakib Malik)

Versus

1. Delhi Subordinate Services Selection Board (DSSSB)
Through its Chairman
Govt. of NCT of Delhi,
FC-18, Institutional Area,
Karkardooma, Delhi-110092
Email: dsssb-secy@nic.in
2. Municipal Corporation of Delhi (MCD)
Through its Commissioner
Dr. SPM Civil Centre,
J.L. Nehru Marg, New Delhi – 110002
Email: commissioner.ccc@mcd.nic.in

... Respondents

(By Advocate: Ms. Purnima Maheshwari for R-1
Mr. Saurabh for Ms. Anupama Bansal for R-2)



ORDER (ORAL)

Hon'ble Mr. Manish Garg, Member (J)

In the instant Original Application, the applicant seeks the following relief(s):-

“(i) Set aside the impugned Result Notice No. 1401 dated 01.07.2022, issued by the Delhi Subordinate Services Selection Board (DSSSB), whereby the Delhi Subordinate Services Selection Board (DSSSB) declined to consider the candidature of the applicant for appointment on the post of Special Educator (Primary) (Post Code: 32/21) in Municipal Corporation of Delhi (MCD) under OBC category;

(ii) Declare that the applicant is entitled to be consider under OBC category for appointment on the post of Special Educator (Primary) (Post Code: 32/21) in MCD and. accordingly, direct the respondents to consider the candidature of the applicant for appointment on the post of Special Educator (Primary) (Post Code: 32/21) in Municipal Corporation of Delhi (MCD) under OBC category with all the consequential benefits (monetary as well as non-monetary benefits) thereof including seniority, back wages, etc.;

(iii) Allow the present Original Application with costs in favour of the applicants; and

(iv) Pass any such other or further orders as this Hon'ble Tribunal may deem appropriate in the facts and circumstances of the case and in favour of the applicants herein.”

2. Learned counsel for the applicant states that the applicant has been treated as Unreserved Category despite the fact that he has holding a valid OBC Certificate. He is a resident of Delhi belonging to Ansari community which is in the notified list and in the Central Government which as per him is duly recognized by the Government of NCT vide a circular dated 27.07.2007. For the sake of clarity, the same is reproduced as under:-



“Sub: Reservation for OBCs in the jobs under the Government of NCT of Delhi.

Madam/Sir,

I am directed to inform that the Hon'ble Lt. Governor has considered the matter regarding grant of benefit of reservation to OBCs in Civil posts under the Govt. of NCT of Delhi and has decided that the Central list for OBCs qua Delhi and castes defined as GBCs by OBC Commission and accepted so by the Government be extended the benefit of reservation in Delhi.

In light of the above, appropriate action for grant of benefits of reservation to OBCs in the civil posts of Govt. of NCT of Delhi may be taken accordingly”

3. He further reiterates that similar stand was reiterated vide recent circular dated 08.11.2021, which also reads as under:-

“Sub: Reservation for OBCs in the Jobs under the Government of NCT of Delhi reg.

Sir,

I am directed to refer to Service Department letter No.F.19(10)2001/8-III/ Pt. file /2278-2285 dated 27/07/2007 by which it has been conveyed with the approval of Hon'ble Lt. Governor that benefit of reservation to OBCs in Civil Posts under the Govt. of NCT of Delhi be extended to the Castes mentioned in Central list for OBCs qua Delhi, and caste defined as OBCs by OBC Commission and accepted so by the Govt.

2. Therefore, the castes mentioned in the Central OBCs list have been accepted by the Government of Delhi for extending benefits of reservation in Civil posts

under the Government of NCT of Delhi in addition to castes notified by the Government of Delhi vide above mentioned letter dated 27-07-2007.

3. Accordingly, Revenue Department, GNCTD is hereby requested to upload the complete list of castes (Notified by Government of NCT of Delhi and caste notified under Central Govt. for the State of Delhi under Central list-(copy enclosed)

This is issues with approval of competent authority.”

4. He places an Entry No. 26 in the said list. He further states that the applicant secured 101.78 marks in OBC Category



whereas the cut-off of the marks of the last selected candidate in the OBC category were 84.44 marks. He has also drawn attention to a Caste Certificate issued on 31.03.2021. The contents of the said Certificate are reads as under:-

“This is to certify that TANISHA ANSARI Die SAFFIULLAH ANSARI R/o H NO-F-288/14 HARI NAGAR PART-2 JAITPUR SOUTH DELHI BADARPUR HARI NAGAR EXTN PART II DELHI 110044 INDIA belongs to the ANSARI community which is recognised as Other Backward Class under the Government of India. Ministry of Social Justice and Empowerment's Resolution No. 12011/01/2001-BCC Dated 2011-08-12.

TANISHA ANSARI and her family ordinarily resides at H NO-F-288/14 HARI NAGAR PART-2 JAITPUR SOUTH DELHI BADARPUR HARI NAGAR EXTN PART II DELHI 110044 INDIA

This is also to certify that she does not belong to the person/sections (Creamy layer) mentioned in column 3 of the Schedule to the Govt. of India, Department of Personnel & Training O.M. No. 36012/22/93-Estt(SCT) 36033/3/2004-Estt(Res), 36033/1/2013-Estt(Res) dated 8/9/1993 9/03/2004 & 14/10/2006 and 27/5/2013 respectively”

5. He immediately applied on 29.04.2022 to the Competent Authority would grant of OBC Certificate which was accorded and has already been reproduced. Further a second recall notice was also given to the applicant dated 26.05.2022, w.e.f., 02.06.2022 to 06.06.2022, as per the stipulation it was to be uploaded. He relies upon the decision rendered by the Hon'ble Apex Court in the case titled **Ram Kumar Gijroya v/s Delhi subordinate Services Selection Board and Ors.**, in Civil Appeal No. 1691/2016 decided on 24.02.2016. Thereafter, he also relies upon the decision rendered in similar situation and



circumstances in the Government of NCT in the case decided by the Hon'ble High Court of Delhi titled **Govt. of NCT of Delhi Through its Chief Secretary & Ors. v/s Anjana** , in W.P.(C) 9856/2019 decided on 10.05.2022, which was also upheld by the Hon'ble High Court and, therefore, as such in light of the ratio in regard to the case of **Ram Kumar Gijroya** and **Anjana (supra)**, he has entitled to the reliefs.

6. Per contra, learned counsel for the respondents vehemently opposes the grant of relief. She does not dispute the fact that the circulars have been issued and pursuant to which only first and second opportunity for removing deficiencies were given. She further states the terms and conditions of the Advertisement of sacrosanct and the OBC Certificate ought to be confirmation at page 79 para 5 (iv), which reads as under:-

“(iv) Only following two types of certificates will be accepted as valid certificates for grant of benefit of reservation to OBCs:-

(A) OBC certificate (Delhi) issued by the Revenue Department of GNCT of Delhi, on the basis of a old certificate issued to any member of individual's family from GNCT of Delhi.

(B) OBC certificate issued by a competent authority outside Delhi to a person belonging to a community duly notified as OBC by GNCT of Delhi This certificate should have mandatarily been issued on the basis of OBC certificate issued by Govt. of NCT of Delhi to o family member of the concerned person who had been residing in Delhi before 08/09/1993.”

7. She also relies that the matter has already been adjudicated and more particularly she relies upon the case of the Hon'ble High Court of Delhi tiled **Pushpendra Singh Parnami v/s**



DSSSB and Anr. in W.P.(C) 2892/2019. She further reiterates that the similar contention has been dealt with in the case of **Ravinder Singh** decided by the Hon'ble Apex Court and, therefore, the issue is no longer address the same. She would contend that the cut-off date is a sacrosanct in terms of the Advertisement and, therefore, cannot be extended by virtue of the Court order.

8. Having gone through the record of the case and carefully gone through the citations placed by the respective counsels, we find that initially the applicant has uploaded the OBC Certificate along with the e-dossiers at page 86. However, the said Certificate was not acceptable, therefore, two recall notices were issued dated 27.04.2022 and 26.05.2022. Pursuant to the first notice immediately the applicant applied for to the Competent Authority grant of Certificate which could that is within two days of the notice dated 29.04.2022. However, despite following the said certificate was made available to him only on 02.05.2022 which was uploaded. He further reiterates that the e-dossiers link which was active, it was uploaded within the stipulated period. Para 3 at page 174 is reproduced as under:-

“3. That the Applicant failed to upload the OBC (Delhi) certificate issued prior to cut off date/closing date of application form Le. 14.04.2021. as directed vide the abovementioned Recall Notices. Therefore, the candidature of candidate was rejected vide Rejection Notice No. 1400 dated 01.07.2022. Further, the applicant could not be selected vide Result Notice No. 1401 dated 30.03.2021.



Aggrieved by the said Rejection Order No. 1400 dated 01.07.2022, Ms. Tanisha Ansari (Roll No. 324032100178) filed present O.A. on the ground that after becoming aware about the OBC (Delhi) Certificate, she had applied and obtained OBC (Delhi) Certificate on 02.05.2022 and also uploaded in e-dossier in response to Recall Notice.

In this regard it is reiterated that from the scrutiny of documents uploaded by the applicant Ms. Tanisha Ansari (Roll No. 324032100178), it was found that OBC Certificate No.90500000730766 dated 31.03.2021 (Annexed as Annexure A/8 in OA), submitted by the applicant is OBC certificate only applicable "for applying for the posts under Government of India" as already mentioned on the said certificate itself."

9. Learned counsel for the respondents does not dispute the fact that the (Annexure A-9) was in proper format as per the Advertisement's terms and conditions only issued to be examined whether it has been uploaded in accordance with the cut-off date or not. To our mind the decision relied upon by the learned counsel for the respondents though relevant to the context that the facts of the case were entirely different. Set of circumstances here we find that the present case is squarely covered by the decision rendered in ***Govt. of NCT of Delhi Through its Chief Secretary & Ors. v/s Anjana (supra)***, which was upheld by the Hon'ble Apex Court as well. For ready reference we reproduce the order passed by the Hon'ble High Court of Delhi as under for the sake of clarity:-

"The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. The petitioner impugns the order of the learned Central Administrative Tribunal ("CAT") dated 28.03.2019 in O.A. No.2986/2016, which while allowing the respondent's O.A. has directed the GNCTD to, within a period of two months from the date of receipt of a copy of the order, take further steps apropos issuance of order of appointment, treating the present respondent as an OBC



candidate, in accordance with the position of merit obtained by her in the written test.

2. Three years have gone-by since the passage of the said order. No corollary relief has been received by the respondent. She had applied for appointment to the post of Assistant Teacher (Nursery), (Post Code 3/13). She claimed OBC status. Examinations were held. Results were declared. She came in the merit list. However, her result was cancelled on 26.02.2016 as it was found that the OBC certificate produced by her was issued on the basis of her father's OBC status recognized in Uttar Pradesh. The said certificate was issued by the Executive Magistrate, Palam, New Delhi.

3. Subsequently by Public Notice dated 10.01.2017 the GNCTD provided all meritorious candidates another opportunity of filing their relevant documents. In the petitioner's case, the relevant document would be the OBC Certificate. The said Public Notice, inter alia. reads as under-

If any candidate is having marks above the cut-off but his/her roll number has not been mentioned in Annexure "A" he/she will also attend the office on 24.01.2017 & 25.01.2017 along with copies of documents, admit card and two passport size photographs. This is final opportunity for the candidates failing which it will be presumed that the candidates are not interested for the post of Asstt. Teacher(Nursery)

"Note:- (1) OBC (Certificate) Should be issued by the Competent Authority of GNCT of Delhi, OBC (Outsider/Migrant/Central) will be treated as UR Candidate."

4. In the interim, on 10.03.2016, eight months before the issuance of the aforesaid Public Notice, a fresh OBC Certificate had already been issued to the petitioner by the Tehsildar, Dwarka, New Delhi on the basis of her residence in Delhi, inasmuch as the "Lodhi Community" she claimed to be from, was recognized as OBC under GNCTD Notification dated 20.01.1995.

5. However, despite the production of the latter OBC Certificate of 10.03.2016, she was not granted employment. The first OBC certificate was issued on the basis of her father hailing from Uttar Pradesh and belonging to the Lodhi OBC category. Between the issuance of the first and the second OBC certificates, the community to which he belonged remained unaltered, indeed subsists. His daughter-the petitioner, was issued an OBC certificate on the basis of the father's residence in Delhi at least from 1995. Albeit the father claims to have resided in Delhi since 1986. On the basis of a driving licence issued in Delhi, his Ration Card and other documents. The respondent was born and educated in Delhi. Her status as a member of the Lodhi Community, which forms a part of Other Backward Class, remains unaltered. This community is recognised as OBC as per GNCTD notification of 20.01.1995. Therefore, issuance of OBC certificate to her is justified. In terms of a subsequent Memorandum dated 13.01.2017 issued by the Delhi Subordinate Services Selection Board ("DSSSB"), the petitioner was granted a last and final opportunity to produce the OBC certificate which she did produce and submitted to DSSSB within the time specified.



6. The petitioner states that in view of two OBC certificates, the dispute arose as to which one will be valid. There is no dispute here. It is only the petitioners' indecision to accept the relevant document. The latter OBC certificate of the successful candidate meets all requirements of the recruitment notice. It should have been accepted. An administrative approval/decision should have been taken instead of bringing the case to this court. The court is of the view, that whichever way it is seen, the respondent continues to belong to the OBC category. In the first certificate, her recognition in the OBC category was on the basis of her father hailing from Uttar Pradesh whereas in the second certificate, it was on the basis of her being born and raised in Delhi but the status of her father belonging to the OBC Lodhi class remains constant and intact. Therefore, she is rightly certified in the "OBC" category.

7. Therefore, the respondent shall be treated as an OBC candidate and shall be issued an appointment letter within four weeks of receipt of a copy of this order.

8. The impugned order calls for no interference. The petition is disposed-off in the above terms. All pending applications also stand disposed-off."

10. We also draw strength from the judgment of the Hon'ble High Court in W.P.(C) 9040/2019 titled ***Praveen Khatri and Ors. v/s Govt. of NCT of Delhi and Ors.***, decided on 27.10.2021 as held as under:-

"1. It needs to be stated at the very outset that, the above-captioned application i.e., CM No.22861/2020 has been moved by petitioners no.4 to 6, while CM No.25471/2020 has been moved by the applicants, who are parties to O.A. No.3647/2018, which was disposed of vide the impugned order dated 02.04.2019. The said O.A. was, in fact, dismissed.

2. Mr. Sudhir Naagar, who appears on behalf of petitioners no.4 to 6, as well as the applicants in CM No.25471/2020["persons represented"], says that, although several persons, similarly circumstanced, have been granted the relief, the persons represented by him had not been accorded relief. In other words, one time relaxation granted to others with regard to late submission of certificate to establish that the candidate had qualified the Central Teacher Eligibility Test (in short "CTET") was not extended to the persons represented. We are told in all cases CTET was cleared and certificates were obtained, before the appointment to the post of "Special Educator (Primary)" [Post Code 15/17]; the advertisement qua which was published on 15.09.2017.



2.1. It is Mr. Naagar's contention that, since persons represented had obtained the CTET qualification, at the point in time, when they were supposed to upload the e-dossier(s) qua the subject post, the Central Administrative Tribunal [in short "the Tribunal"], via order dated 25.09.2018, while the O.A. [i.e., O.A. No.3647/2018] was pending adjudication, gave permission to file the e-dossier(s), through offline mode.

2.2. Mr. Naagar says that, the respondents have denied the benefit of one time relaxation to the persons represented only on the ground that the CTET certificate(s) was/were not uploaded via internet ie., in the e-dossier module.

2.3. Furthermore, Mr. Naagar contends that the concerned authority, which conducts CTET, i.e., Central Board of Secondary Education (CBSE). conducted the said examination, after September 2016, in December 2018, which was, ultimately, cleared by the persons represented.

2.4. Mrs. Avnish Ahlawat, who appears on behalf of respondent no.1/GNCTD, cannot but accept the fact that the appointment offer(s) have been made in respect of persons, who submitted their CTET certificates, after the cut-off date provided in the aforementioned advertisement, but before the date of appointment.

3. That being the position, we are of the opinion that, merely because the CTET qualification was obtained after the cut off date, but before the completion of the recruitment process, persons represented by Mr Naagar, cannot be treated differently

4. In these circumstances, we are of the view that the order dated 13.03.2020 granting relaxation, inter alia, qua CTET qualification, as regards the subject post, issued by the Director of Local Bodies, Government of NCT of Delhi, with the approval of the Lieutenant Governor, should be extended to persons represented by Mr Naagar ie, petitioner nos.4 to 6 and the applicants in CM No.25471/2020.

4.1. It is ordered accordingly.

5. The above-captioned applications are, accordingly, disposed of.

W.P.(C) No.9040/2019 & CM Nos.37301/2019, 2800/2021. 7034/2021

6. In view of the order passed in CM Nos 22861/2020 & 25471/2020, nothing further needs to be done.

7. The writ petition is, accordingly, disposed of. Consequently, pending applications shall also stand closed.

8. The case papers shall stand consigned to record.”

Item No. 51 (C-5)



11. In view of the present OA, the impugned rejection and treating the applicant as Unreserved qua the applicant is liable to be set aside. We allow the present OA directing the respondents that the applicant shall be treated as OBC candidate and shall be issued appointment letter within two months from the date of receipt of a certified copy of this order. We further direct that once the offer of appointment has issued, the applicant shall be entitled to notional seniority only subject to the last selected candidate in her category. The actual salary shall be granted to the applicant from the date of actual joining.

12. No order as to costs.

(Anand S Khati)
Member (A)

(Manish Garg)
Member (J)

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