

**Central Administrative Tribunal
Principal Bench, New Delhi**



**C.P. No. 108/2020
in
O.A. No. 4520/2017**

**Reserved on: 19.11.2024
Pronounced on: 28.11.2024**

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

Lal Singh,
S/o Shri Parhlad,
R/o FZ-122, Laxmi Park,
Nangloi, New Delhi – 110041.

...Petitioner

(By Advocates: Mr. Anuj Agarwal with Mr. Shakib Malik, Mr. Pradeep Kumar and Ms. Tanya)

Versus

1. Sh. Vijay Kumar Dev, Chief Secretary,
Govt. of NCT of Delhi, A-Wing, 5th Floor,
Delhi Secretariat, I.P. Estate, New Delhi.

2. Ms. Gitanjali Gupta Kundra, Chairman,
Delhi Subordinate Services Selection Board (DSSSB),
F-18, Karkardooma Institutional Area, New Delhi -92.

3. Sh. Gitanjali Gupta Kundra, Secretary (Services),
GNCT of Delhi, 7th Level, "B" Wing, Delhi Secretariat,
I.P. Estate, New Delhi.

4. Sh. Monika Bhardwaj, Deputy Commissioner(West District),
Old Middle School Building, Lawrence Road,
Rampura, Delhi – 110085.

...Respondents

(By Advocate: Ms. Awnish Ahlawat with Mr. Amit Anand)

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

This C.P. has been filed by the petitioner alleging willful defiance of the order dated 25.04.2019 passed by this Tribunal in OA No. 4520/2017.

2. The O.A. No. 4520/2017 was disposed of by this Tribunal vide order dated 25.04.2019. The operative part of the said order, reads as under:

“12. Under the circumstances, we dispose of this OA with a direction that the respondents shall duly consider all material that the applicant has submitted or which may be available with the respondents or can be obtained by them for the purpose of determining whether the applicant belongs to the OBC category or not. The applicant may also file a fresh representation along with any document that he may wish to submit in support of his contention of being an OBC candidate within a period of one month from the date of receipt of a certified copy of this order. The respondents shall consider all relevant material on record and make such enquiries, as may be necessary, and come to a definite conclusion whether the candidate belongs to the OBC category or not. They shall do the same through a comprehensive, reasoned and speaking order, which would include addressing the observations made in para 8 above, within a period of one month from the date of receipt of the representation of the applicant or, if no representation is received, within one month of the last date by which the applicant has been allowed to make a representation by this order. If the applicant is found to be belonging to the OBC category, he shall be given all such benefits, as are accordingly available. No costs.”

3. In terms of the afore-quote directions, the petitioner submitted his representation dated 17.05.2019 to the respondents. In response to the said representation of the petitioner, the respondent No. 2, i.e., Delhi Subordinate



Services Selection Board (DSSSB) passed an order dated 09.07.2019.

4. It is the contention of the learned counsel for the petitioner that the petitioner's representation dated 17.05.2019 made to the respondent No. 4 for determination of his OBC status has been disposed of by the respondent No. 2 by passing the order dated 09.07.2019, while the respondent No. 4 was undergoing the requisite exercise as directed by this Tribunal in order/judgment dated 25.04.2019.

5. Heard learned counsel for the parties and perused the pleadings available on record as well as the written submissions filed on behalf of the respective parties.

6. We find that as per the order dated 09.07.2019 issued by the DSSSB, the petitioner has been treated as an OBC (outsider) as he does not possess the caste certificate of "OBC (Delhi)", which is required for being eligible for reservation in Delhi.

7. We also observe that the O.A. No. 4520/2017 was disposed of by this Tribunal directing the respondents to duly consider all material that the petitioner has submitted or which may be available with the respondents or can be obtained by them for the purpose of determining



whether the petitioner belongs to the OBC category or not. Further, it was also directed that the respondents shall consider all relevant material on record and make such enquiries, as may be necessary, and come to a definite conclusion whether the petitioner belongs to OBC category or not. However, from a bare reading of the order dated 09.07.2019 issued by the recruiting agency, i.e., DSSSB, it is apparent that the same has been passed without waiting for the finding(s) of the Revenue Department, who is the Competent Authority to arrive at a just conclusion, as to whether, the petitioner can be treated as an OBC (Delhi) candidate for recruitment in Government of NCT of Delhi or not.

8. There is no denial of the fact by the respondents that vide Order dated 10.07.2019 issued by the O/o the Sub-Divisional Magistrate, Punjabi Bagh, based on a detailed enquiry, following observation were made in favour of the applicant :

“Whereas an application dated 26.09.2018 addressed to DM (West) of Sh. Lal Singh resident of FZ-122, Laxmi Park, Nangloi, Delhi-41 was received in this office through DM(West) vide diary no. 6167 dated 26.09.2018 for seeking clarification as to whether the OBC Certificate NO. OBC/03/31/13873/13/8/2010/8931028650 dated 27.08.2010 is of OBC Delhi state or OBC migrants, whereas he submitted the proof of residence before the year, 1993.



Whereas on the representation of Sh. Lal Singh S/o Sh. Parhlad resident of FZ-122, Laxmi Park, Nangloi, Delhi-41 SDM-X(HQ) O/o Div. Commissioner was also informed vide our letter no. FI/SDM(PB)/Misc/2018/7550 dated 01/11/2018 that the certificate No OBC/03/31/13873/13/8/2010/8931028650 dated 27.08.2010 was issued by this office to Sh. Lal Singh S/o Sh. Parhlad on the basis of Local enquiry done of his father Pahlad Rio Village Nagriya Dakana Tehsil Khor District Aligarh U.P who belongs to JAT Caste. In case Sh. Lal Singh wants the OBC certificate from Delhi he may produce the residence proof of Delhi prior to 08.09.1993

Whereas O.A No. 4520/2017 was filed by Sh. Lal Singh before the Hon'ble CAT in the matter Lal Singh Versus GNCT of Delhi, wherein counter affidavit was filed on behalf of the respondent 4, stating the view of this office as stated in the aforesaid para-II.

Whereas Sh. Lal Singh submitted the application dated 13.05.2019 and 01.07.2019 alongwith copy of the order of the Hon'ble CAT and documents showing the proof of residence in Delhi prior to 08.09.1993 viz appointment Office Order issued by the CPWD Deptt. in respect of his father Sh. Parhlad appointed as Mali w.e.f 23/08/1982 in the scale of Rs. 196-232 and certified copy from Dy. (Director Horticulture) CPWD certifying that Sh. Parhlad Sio Jawar Singh is working to the post of Mali w.e.f 23.08.1982 and as per office record his address is FZ-122, Laxmi Park, Nangloi, New Delhi-110041, Photocopy of GPA Photocopy of OBC Certificate No OBC/03/31/26166/8/11/2012/89310/8931086993 dated 23/12/2012 of his brother belonging to JAT community from Delhi State issued by the Tehsildar (Punjabi Bagh). Besides he has got education of class- X and XII from Delhi vide certificate No. 028318 in the year, 2002 and 262810 in the year, 2005 from Govt. Boys Senior Sec. School, Nangloi and Sarvodya Boys SSS A2 Paschim Vihar, New Delhi, respectively.

Whereas a local enquiry through field Kanungo of Sub Division Punjabi Bagh for confirmation of his caste in OBC community from Delhi state was conducted, wherein it has been confirmed that Sh. Lal Singh belongs a JAT community having family income Rs. 7 Lakh and also obtained the statement of two witnesses of nearby residence who have also confirmed his caste as Jat Community.

Now, in the light of the above, I Anil Chaudhary, Tehsildar (Punjabi Bagh) do hereby order in pursuance of directions of the Hon'ble CAT Order dated 25.04.2019 passed in OA No. 4520/2017 that Sh. Lal Singh S/o Sh. Parhlad R/o FZ-122, Laxmi Park, Nangloi, Delhi -41 belongs to JAT community in OBC Category and fulfills



the condition for issuance of OBC certificate in Jat Community of Delhi State being resident of Delhi before 08.09.1993.

This issues with the approval of DM (West), Delhi.”

9. Obviously, the recruiting agency/DSSSB, without even consulting the Revenue Department went on to proceed and passed the order dated 09.07.2019 and denied the consequential relief(s) to the petitioner in terms of the final order dated 25.04.2019 passed by this Tribunal in the captioned OA. The said decision taken by the recruiting agency/DSSSB runs contrary to the letter and spirit of the final order dated 25.04.2019, which has not been challenged by any of the parties till date, thus attaining finality. More-so, when the applicant, at a later stage, based on the Order dated 10.07.2019 issued by the O/o the Sub-Divisional Magistrate, Punjabi Bagh, moved an application seeking for a fresh OBC (Delhi) Certificate and later withdrew it (though plausible reasoning is coming forth for said withdrawal), upon which a shelter is being taken by the DSSSB for justifying their stand by stating that as on the cut off date, the applicant was not having a valid OBC (Delhi) Certificate. The said statement by the DSSSB touches upon the merits of the case.

10. The objections of the respondents now suggests that the respondents have neither complied with nor are



intending to comply with the directions passed by the Tribunal in terms of para No. 12 of the final order dated 25.04.2019. The counsels for the Revenue Department and recruiting agency, i.e., DSSSB, are the same. The recruiting agency as well as Revenue Department acted on their own and passed their respective orders. The objections are being raised, which are touching upon the merits of the case. It is apparent that there is an apparent lack of proper coordination between the Revenue Department and DSSSB, which cannot be a defence for not complying with the order of this Tribunal.

11. Now we come to the question, as to whether, the respondents are guilty of not complying with the order dated 25.04.2109 intentionally and now raising objections which are untenable in law. To arrive at such a conclusion, we observe that the following elements beyond a reasonable doubt need to be established:

- (i) There was a lawful and reasonably specific order, decree, or proceeding;
- (ii) The alleged contemnor(s) violated that order or decree, or affidavit so filed by respondent in compliance does not justify their actions ; and
- (iii) The alleged contemnor's conduct was willful.



12. We observe that in Contempt proceedings, the Courts/Tribunals are concerned with implementation of the order(s) in its letter and spirit. The Courts/Tribunals cannot go into the merits of the case in Contempt, which we are being now compelled to enter into. In case the orders passed by this Court are not implemented, it will lead to a situation where each department of the Government will be raising objections to the statement made by the other Department. This will be a never ending process. Obviously, the Courts are not concerned with the methodology or procedure adopted to comply with its order.

13. Undoubtedly, in the captioned Original Application, in which the order dated 25.04.2019 was passed, the DSSSB as well as Revenue Department were the parties. The said order dated 25.04.2019 has not been challenged by any of the parties till date, thus attaining finality. The proper recourse for implementation of the directions in terms of para 12 of final order would have been that the DSSSB either could have called for the report from Revenue Authorities or constituted a Committee to arrive at just decision before passing the order dated 09.07.2019. The office order dated 09.07.2019 passed by the DSSSB and 10.07.2019 passed by the Revenue Department are apparently without caring to consult each other, which has



led to an anomalous and peculiar situation. We would say that high volume of recruitment process and lack of coordination between these interrelated authorities needlessly complicate contempt litigation wherein the respondents for justifying their actions file compliance affidavits one after the other. In such a situation, we can give the respondents a benefit of doubt to a certain extent. The objectives of contempt proceedings concerns compliance of order in letter and spirit. An act of disobedience can insult a court's dignity; an insult against a court's dignity can arise from an act of disobedience. The present case is not a case of direct contempt but a constructive contempt that is due to lack of co-ordination amongst two different departments of the Government.

14. The Tribunal possesses both inherent and implied constitutional authority to correct disobedience. Nothing under the Contempt of Court Act, 1981 and Rules thereto, can be construed to detract from the Tribunal its authority to correct defiance of its orders through civil contempt proceedings. Lack of coordination between the inter-related authorities has needlessly complicated the present Contempt Petition as validity of OBC certificate was never in question. The directions in para 12 of the order dated 25.04.2019 were confined only to the fact, as to whether,



the applicant belongs to OBC category or not. For the said purpose, a detailed enquiry was held in favour of applicant. There is no denial to the fact that vide Order dated 10.07.2019, the Revenue Authorities had come to conclusion that the applicant belongs to JAT community in OBC category and fulfills the condition for issuance of OBC certificate in JAT Community of Delhi State being a resident of Delhi before 08.09.1993. Without waiting for the outcome of the enquiry conducted by the Revenue Department, the DSSSB acted independently and passed the order dated 09.07.2019 which shows lack of co-ordination amongst each other.

15. To put a quietus to the issue, the Contempt Petition is closed with a directions to the competent authority amongst the respondents to correct the defiance and comply with the directions passed by this Tribunal vide its order dated 25.04.2019 in the captioned O.A., un-influenced by the order dated 09.07.2019 passed by the DSSSB and by taking note of the finding arrived at in favour of applicant vide order dated 10.07.2019 issued by the Competent Authority, i.e., D.M (West), Government of NCT of Delhi. The respondents shall take corrective measures in co-ordination with each other and grant consequential relief(s) in terms of para 12 the directions



passed by the Tribunal in its final order dated 25.04.2019 within a period of three months from date of receipt of a certified copy of this order.

16. In peculiar facts of the case, the offer of appointment to be issued to the applicant shall be treated as a fresh appointment and the same is to be adjusted against future vacancies. The applicant shall not be entitled to any arrears of pay, however, shall be entitled to notional seniority w.e.f. dated 10.07.2019.

17. Pending MAs, if any, shall also stand disposed of. No costs.

(Dr. Anand S. Khati)
Member (A)

(Manish Garg)
Member (J)

/as/