
(2019) 03 CAT CK 0078

In the Central Administrative Tribunal

Case No : Original Application No. 100, 4400 Of 2018 With Miscellaneous Application No. 100, 4988 Of 2018

Anuragbachan Singh

APPELLANT

Vs

Union Of India Through Its Secretary

RESPONDENT

Date of Decision : 11-03-2019

Acts Referred:

Citation : (2019) 03 CAT CK 0078

Hon'ble Judges : L. Narasimh Reddy, J; Mohd. Jamshed, J

Bench : Division Bench

Advocate : Ajesh Luthra, Y.P. Singh, Amit Sinha, R.V. Sinha

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J

1. The applicant took part in the Civil Services Examination (CSE) of the year 2017. He claimed the status of 'OBC?', as he belonged to 'JAT' community. A certificate issued by the Sub Divisional Magistrate (SDM), Sri Ganganagar District, Rajasthan dated 9.03.2017 was enclosed. The applicant was successful in the Preliminary Examination as well as the Main Examination. He was issued a call letter for personality test on 22.02.2018. However, the UPSC refused to permit him to that test by raising an objection that community was mentioned in the relevant column as "JAT SIKH". The applicant filed OA 1584/2018 challenging the same. Even while the OA was pending, the UPSC revived the candidature of the applicant on 20.04.2018. In that view of the matter, the OA was withdrawn.

2. The applicant was assigned the overall rank of 673 in the result, that was published. However, he was not extended the benefit of reservation as an 'OBC?' candidate. The candidate who secured the rank of 675 and belonged to 'OBC?' category, was allotted to Indian Revenue Service (IT).

3. The applicant contends that when the respondents started doubting the accuracy of the caste certificate dated 9.03.2017, he approached the concerned

authorities in the State of Rajasthan and they, in turn, issued a certificate dated 15.03.2018 that he belongs to `JAT? community, and still the respondents have not extended the benefit of reservation to the applicant.

4. This OA is filed with a prayer to declare non-allocation of service to the applicant by the respondents with reference to CSE 2017, as illegal and arbitrary, and to direct the respondents to consider his case for allocation to IRS (IT).

5. The applicant contends that the Central Government recognized `JAT? as an `OBC? in the State of Rajasthan except in Bharatpur and Dhaulpur Districts, and being a resident of Sri Ganganagar District, he is entitled to claim reservation. He submits that for quite some time, a doubt existed as to whether `JATS? practicing religion other than Hinduism, can be issued a community certificate in the context of reservation and the Central Government issued clarifications in this behalf. The applicant further submits that the respondents have not taken relevant aspects into account and have wrongfully denied him allocation to IRS.

6. Respondents 1, 3 and 4 and respondent 2 have filed separate counter affidavits. According to them, the caste certificate enclosed by the applicant along with the application form shows that he belongs to "JAT SIKH" community and since it is not found in the list of OBCs, his candidature was not considered. It is also stated that subsequent certificate dated 15.03.2018 cannot be taken into account, since it was issued beyond the stipulated date.

7. We heard Shri Ajesh Luthra, for the applicant, Shri Y.P. Singh, for respondents 1, 3 and 4 and Shri Amit Sinha for Shri R.V. Sinha, for respondent 2.

8. The applicant claimed the benefit of reservation as `OBC? candidate. It is not in dispute that the `JAT? community is recognized as `OBC? in the State of Rajasthan except in the Districts of Bharatpur and Dhaulpur. In the list of `OBC? published by the Government of India, it figures at serial number 58.

9. The applicant is a resident of Sri Ganganagar District of Rajasthan and practices `SIKH? religion. This was clearly mentioned in his application form for CSE itself. He stated that he belongs to `JAT? community and practices `SIKH? religion.

10. The question as to whether the `JAT? practicing religion other than Hinduism can be treated as eligible in the context of reservation, was dealt with by the Ministry of Social Justice & Empowerment. On 6.11.2001, the following clarification was given:

"I am directed to refer to your letter No.F11/25/2/R&P/SV/584 dated 16.10.2001 on the above subject and to say that `JAT? Caste/Community has been included in the Central List of OBCs for Rajasthan (except Bharatpur & Dhaulpur Districts) as per the Notification No.12011/68/98-BCC dated 27.10.1999.

2. As regards inclusion of any Caste/Community in the Central Lists of OBCs, there is no bar of religion and as such any caste/community irrespective of its

religion can be considered for inclusion in the Central Lists of OBCs provided the community otherwise fulfill the criteria of Social, Educational and Economic backwardness.

3. In view of the above, persons professing sikh religion belonging to `Jat? community in the State of Rajasthan (except Bharatpur & Dhaulpur Districts) are entitled to get Backward Class Certificate. However, before issue of such certificate it may be ensured that the person concerned is a permanent resident of that State. In case of migrant OBCs, who have migrated from one state to another, the OBC certificate may be issued on the production of a Certificate issued to his father by the prescribed authority of the State of his father?s origin after satisfying about the genuineness of the certificate issued to his father by the State of his origin. A copy of the guidelines issued in this regard by the Govt. of India is enclosed."

Much prior to that, the issue was addressed by the National Commission for Backward Classes in their letter dated 27.06.2001, as under:

"?Jat? has been included in the central list of backward classes for the State of Rajasthan vide notification no. 12011/68/98-BCC dated 27.10.1999. It has been reported to the Commission that Jat subscribing to Sikhism are being discriminated and are not being given backward classes certificate in the State of Rajasthan. The Commission has resolved that all the members of the Jat community irrespective of their religion, are eligible for backward classes certificate and desired that Govt. of Rajasthan may be advised accordingly. You may kindly take necessary action."

11. Obviously because the applicant hails from `SIKH? religion, the SDM issued the certificate on 9.03.2017 mentioning the community of the applicant as "JAT SIKH". It is not as if any community with such a description figures in the list of `OBC? either in Rajasthan or the Central Government. In his application submitted to the UPSC, the applicant mentioned his community as `JAT?.

12. The applicant was permitted to take part in the Preliminary and Main Examination and only at the stage of personality test, a doubt was entertained and his candidature was cancelled. However, even while the OA filed by the applicant was pending adjudication before the Tribunal, the UPSC revived the candidature of the applicant and completed the process of selection. He was assigned the rank of 673.

13. In the context of allocation, the community of the applicant became relevant. It is at this stage, that the respondents once again entertained a doubt. By that time, the applicant obtained certificate dated 15.03.2018 from the same authority wherein his community was mentioned as `JAT?. The purpose of this certificate was to clarify the situation that obtained from the inception.

14. Things would have been different altogether, had it been a case where the "JAT SIKH" existed as a separate community in ?OBC? or any other list. Once

such community is not recognized at all, the mention thereof in the caste certificate issued to the applicant should not make much difference. With the issuance of subsequent certificate, the doubt was clarified. The mention of 'SIKH' community at the initial stage is referable to various communications that were issued from time to time by the Central Government. Except that the religion is mentioned along with the caste, the caste certificate does not present any different picture.

15. A Division Bench of the Allahabad High Court in Baldev Singh Vs. Tahsildar and Others, 2000 (4) AWC 2781 held that the "JAT SIKH" are entitled to be treated as 'OBC' for the benefit of reservation. Relevant portion of the judgment reads as under:

"12. In view of the discussion made above, we are clearly of the opinion that a 'Jat Sikh' being also a 'Jat' is fully covered by entry 78 of Schedule I of 1994 Act and is a member of backward class. The petitioner is, therefore, entitled to be issued a certificate that he belongs to a backward class and is eligible to contest for the office of Adhyaksha, Zila Panchayat, Rampur, which has been reserved for a person belonging to the said community."

This was followed by the High Court of Uttaranchal in Writ Petition No.917 (M/B) of 2003, Dharam Singh Vs. State of Uttaranchal through Chief Secretary and others.

16. Under these circumstances, we find that the applicant is entitled to be treated as 'OBC' and to be allotted to the appropriate service, duly extending the benefit of reservation. The OA is accordingly allowed and the respondents are directed to allot the applicant to the appropriate service on the basis of the rank obtained by him, duly treating him as 'OBC'. Since the foundation course is said to have commenced, we direct that the exercise in this regard shall be completed within a period of two weeks from the date of receipt of a certified copy of this order. There shall be no order as to costs.