
(2025) 05 CAT CK 0311

In the Central Administrative Tribunal, Srinagar Bench, Srinagar

Case No : Original Application No. 506 Of 2024, 1031 Of 2023

Irshad Ahmad Najar

APPELLANT

Vs

Government Of Jammu & Kashmir & Ors.

RESPONDENT

Date of Decision : 22-05-2025

Acts Referred:

Citation : (2025) 05 CAT CK 0311

Hon'ble Judges : D S Mahra, Member (J); Prasant Kumar, Member (A)

Bench : Division Bench

Advocate : Nisar Ahmad, Rais Ud Din Ganaie

Final Decision : Allowed/ Disposed Of

Judgement

D. S. Mahra Member (J)

1. The respondent issued an advertisement dated 11.11.2022 for the post of Junior Engineer (Civil) in the Public Works Department (R&B). As per the advertisement, the last date for submission of applications, along with the required documents, was 20.12.2022.

2. The applicant, being eligible, applied for the said post under the OSC (Other Social Caste) category and participated in the selection process. The applicant was provisionally selected under the OSC category and placed at Serial No. 7 in the final selection list. However, his recommendation was withheld by the J&K Services Selection Board (SSB) for want of a valid OSC certificate from the competent authority.

3. Aggrieved by the non-recommendation of his candidature, the applicant filed O.A. No. 1031/2023 before this Tribunal. Vide order dated 22.12.2023, this Tribunal directed the respondents to consider the claim of the applicant in accordance with law.

4. Pursuant to the directions issued by this Tribunal on 22.12.2023, the respondents passed an order dated 16.07.2024, rejecting the claim of the

applicant on the ground that the OSC certificate submitted by him had expired on 08.03.2022, and that he failed to submit a valid OSC certificate before the cut-off date of i.e. 20.12.2022. The applicant has challenged the said rejection order dated 16.07.2024 by way of the present O.A. No. 506/2024.

5. Learned counsel for the applicant submitted that the applicant belongs to the OSC category by birth and that he had submitted an OSC certificate dated 09.03.2017, issued by the Tehsildar Lolab Sogam, which did not mention any expiry date. He further submitted that when objections were raised, the applicant submitted a fresh OSC certificate dated 15.12.2023, issued by the competent authority. Despite this, the applicant's recommendation has not been forwarded by the Respondent No. 2&3/SSB to the intending department.

6. On the other hand, Learned counsel for the respondents submitted that the applicant did not submit a valid OSC certificate before the prescribed cut-off date of i.e. 20.12.2022, as such, his candidature was rightly withheld and ultimately rejected.

7. Heard Learned counsel for the parties and perused the material available on record.

8. The applicant applied for the post of Junior Engineer (Civil) in the Public Works Department (R&B) under the Other Social Caste (OSC) category, pursuant to an advertisement issued by the respondents on 11.11.2022. As per the terms of the said advertisement, the last date for submission of the application form, along with all requisite eligibility certificates/documents, was 20.12.2022. He participated in the selection process, and was placed at Serial No. 7 in the selection list under the said category. It is also an admitted fact that the applicant belongs to the OSC category, as recognized by the competent authority, and had submitted an OSC certificate dated 09.03.2017. It is further revealed from the record that upon objection, he also submitted another OSC certificate dated 15.12.2023.

9. It is a well-settled principle of law that in order to consider the claim of a candidate for a reserved post under the SC, ST, OBC, OSC, or other reserved categories, the fundamental requirement is that the individual must belong to such a category by birth. The certificate issued by the competent authority is merely a formal declaration, the purpose of which is to enable the authorities to verify and rely upon the candidate's assertion regarding his or her social status.

10. It is an admitted fact that the applicant belongs to the OSC category of the Union Territory of Jammu & Kashmir. It is also an admitted legal position that the status of belonging to a reserved category is not acquired on the date of issuance of the certificate, but rather is inherent by virtue of birth. The constitutional mandate behind the policy of reservation in public employment for the SC, ST, OBC, OSC, and other marginalized communities is to eliminate social and economic inequalities, and to ensure social justice by providing such groups with adequate representation and opportunities in the public employment in

accordance with law. The objective of reservation is not merely formal inclusion but substantive equality, designed to remedy historical disadvantage and systemic discrimination.

11. The Hon'ble Supreme Court in the matter of Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board and Ors., (2016) 4 SCC 754 has held as follows:

(15) "Reservation is one of the measures adopted by the Constitution to remedy the continuing evil effects of prior inequities stemming from discriminatory practices against various classes of people which have resulted in their social, educational and economic backwardness. Reservation is meant to be addressed to the present social, educational and economic backwardness caused by purposeful societal discrimination. To attack the continuing ill effects and perpetuation of such injustice, the Constitution permits and empowers the State to adopt corrective devices even when they have discriminatory and exclusionary effects. Any such measure, insofar as one group is preferred to the exclusion of another, must necessarily be narrowly tailored to the achievement of the fundamental constitutional goal."

Thus in order to be considered for the post reserved for SC category, the requirement is that a person should belong to SC category. If a person is SC, he is so by birth and not by acquisition of this category because of any other event happening at a later stage. A certificate issued by competent authority to this effect is only an affirmation of fact which is already in existence. The purpose of such certificate is to enable the authorities to believe in the assertion of the candidate that he belongs to SC category and act thereon by giving the benefit to such candidate for his belonging to SC category. It is not that petitioners did not belong to SC category prior to 30-6-1998 or that they acquired the status of being SC only on the date of issuance of the certificate. In view of this position, necessitating upon a certificate dated prior to 30-6-1998 would be clearly arbitrary and it has no rational objective sought to be achieved.

(16) While taking a particular view in such matters one has to keep in mind the objectives behind the post of SC and ST categories as per constitutional mandate prescribed in Articles 15(4) and 16(4), which are enabling provisions authorising the Government to make special provisions for the persons of SC and ST categories. Articles 15(4) and 16(4), therefore, intend to remove social and economic inequality to make equal opportunities available in reality. Social and economic justice is a right enshrined for protection of society. The right in social and economic justice envisaged in the Preamble and elongated in the fundamental rights and directive principles of the Constitution, in particular Articles 14, 15, 16, 21, 38, 39 and 46, are to make the quality of the life of the poor, disadvantaged and disabled citizens of the society meaningful.

(17) This Court, after interpretation of Articles 14, 15, 16 and 39-A of the directive principles of State policy, held that the object of providing reservation to

the SCs/STs and educationally and socially backward classes of the society is to remove inequality in public employment, as candidates belonging to these categories are unable to compete with the candidates belonging to the general category as a result of facing centuries of oppression and deprivation of opportunity. The constitutional concept of reservation envisaged in the Preamble of the Constitution as well as Articles 14, 15, 16 and 39-A of the directive principles of State policy is to achieve the concept of giving equal opportunity to all sections of the society.

12. Similarly, the Hon'ble High Court of Delhi in the matter of Pushpa v. Government of NCT of Delhi, 2009 SCC OnLine Del 281, and in Tejpal Singh v. Government of NCT of Delhi, 1999 SCC OnLine Del 1092, held that the candidature of a person belonging to SC, ST, OBC, OSC or other reserved categories cannot be rejected merely on account of late submission of the caste certificate, provided it is established that the candidate did indeed belong to the reserved category as on the relevant cut-off date. The courts emphasized that the caste status of a candidate is determined by birth, and the caste certificate is only a formal proof of that status.

13. The Hon'ble High Court of J&K in the matter of Surjeet Singh Bali Vs. State of J&K and Others reported in 2007 (2) JKJ (High Court) 382 has held as follows:

(10) Whether private respondents 6 and 7 have been rightly considered in the RBA category despite the fact that they submitted the RBA category certificate after the cutoff date but before the examination was held? We are of the considered opinion that respondent No.4 has exercised its power rightly, and the selection of the above respondents is legal. The impugned judgment is well reasoned for the following reasons:

"The RBA category certificate relates to the status of a candidate and not to academic qualification. If a candidate takes the ground that he belongs to the RBA category, he has to produce the said certificate in terms of SRO 126/94.

It is not the case of the parties before the Court that private respondents 6 and 7 obtained or acquired the said status after the examination or after the cutoff date. It is also not the case that the RBA certificates produced by the private respondents are fake or that they do not belong to the RBA category."

(11) The RBA status is conferred by residence/domicile. The private respondents were having this status even at the time of submission of application forms but were not in possession of the concerned certificates, which came to be issued in their favour after filing of the application forms and before the examination was held. They had mentioned in the application forms that they belonged to the RBA category. While making this observation, we are supported by what was said by this Court in the case reported as 2002 (1) SLJ 234, J&K Public Service Commission and another v. Ms. Rimpi Ohri and another. It is profitable to reproduce paragraph 27 of the aforesaid judgment as under:

"The requisite qualification on the last date of application is relatable to educational qualification. In the case of the respondent, we have already held that she was a resident of LAC at the time of submission of the application and continues to be so even today. If that is so, she was definitely possessing the qualification with regard to the residence of LAC at the time of the closing date of the application i.e., 16.03.1999. Non-renewal of certificate would not alter the status of her residence if otherwise she was factually a resident of the Line of Actual Control. The factum of the respondent/writ petitioner being the resident of the Line of Actual Control is not denied by the applicant."

(12) It is to be taken into consideration as to what is the purpose, object, aim, and ambit of SRO 126/94. The Constitution guarantees that the socially backward be uplifted and upgraded, and that some benefits be given to them in terms of the constitutional mandate. The Government of Jammu and Kashmir formulated the Reservation Rules—SRO 126/94. The purpose of the SRO is to confer certain benefits to members belonging to the categories of RBA, Line of Actual Control, Scheduled Castes, and Scheduled Tribes, and no educational qualification is prescribed except that a candidate seeking the benefit of any such category should be a resident of a particular area at a particular point of time.

14. In view of the above legal positions, there is no doubt about the social status of the applicant. He belongs to the OSC (Other Social Caste) category and submitted his certificate to that effect to the respondents/ Service Selection Board when an objection was raised with regard to non-submission of the certificate within the cut-off date i.e. 20-12-2022. The applicant's OSC status is not in dispute, and he had submitted one certificate before the cut-off date issued on 09.03.2017 and another after the cut-off date issued on 15.12.2023.

15. It is not the case of the respondents that the applicant does not belong to the OSC category or that the certificate is fraudulent. Therefore, mere non-submission of a fresh certificate before the cut-off date cannot defeat the applicant's claim for appointment. The action of the respondents in rejecting the applicant's candidature purely on technical grounds is not in accordance with the legal position settled by the Hon'ble Supreme Court and the Hon'ble High Courts as referred above.

16. In view of the above, the consideration/rejection order dated 16.07.2024 is hereby set aside. The respondent No. 2 and 3 are directed to accept the OSC certificate submitted by the applicant and proceed to recommend his name to the intending department for appointment under the OSC category, within a period of four weeks from the date of receipt of certified copy of this order if there are no other impediments.

17. In view of the above, O.A. No. 506/2024 is allowed. O.A. No. 1031/2023, being a connected matter, is also disposed of in the same terms. There shall be no order as to costs.