
(2013) 10 P&H CK 0211

In the Punjab And Haryana At Chandigarh

Case No : CWP No's. 26092 of 2012 and 16627 of 2013

Rajbir Singh and Another

APPELLANT

Vs

Chandigarh Administration and Others

RESPONDENT

Date of Decision : 25-10-2013

Acts Referred:

Citation : (2014) 1 SCT 535

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : Ramesh Goyal and Mr. Namit Kumar, for the Appellant; Lisa Gill, for the Respondent

Final Decision : Allowed

Judgement

Rajiv Narain Raina, J.—This order will dispose of CWP Nos. 16627 of 2013 and 26092 of 2012, as common questions of law and facts are involved in both the writ petitions. The dispute in the present case is that the candidature of the petitioners has been rejected as not falling under OBC quota since the Caste Certificates issued to them contained the word "Nai". The Central List of OBCs in respect of the UT, Chandigarh issued by the Ministry of Welfare resolution dated 11.12.1997 represents the OBC List under Article 341 of the Constitution of India. At entry No. 28 of this List, the words "Hajjam/Hazam, Nai" are mentioned. Based on this list, the UT Administration, Chandigarh has issued the list of OBCs in which the caste "Nai" has been referred to in Entry No. 19 as "Nais". The UT List issued by its Social Welfare Department was notified on 27.6.1995 i.e. before the Central Government issued the List of OBCs in 1997.

2. The UT Administration in processing the application forms of the petitioners and discovering the discrepancy in spelling, one singular the other plural, has stuck to the letter of the word "Nais" and refused to offer appointments to the petitioners, after selection at the stage of screening on the ground that the petitioners did not possess caste certificates in conformity with the UT list dated 27.6.1995. It appears that after the list was published and notified by the UT

Administration on 27.6.1995, no steps have been taken to bring that list in tune with the resolution dated 11.12.1997 issued by the Central Government in which the word "Nai" has been clearly mentioned in isolation of the common nouns "Hajjam/Hazam" separated by a comma.

3. Heard learned counsel for the parties.

4. The UT Administration has apparently applied the principle of strict interpretation by way of abundant caution in rejecting the case of the petitioners for appointment by restricting the word "Nais" to its literal meaning by exclusion of plurality, since the word is not mentioned in the Caste Certificates relied upon by the petitioners in both the writ petitions to claim OBC reservation in direct recruitment to public posts in the UT Administration. However, that will not change the factual position which has to commensurate with the notification dated 11.12.1997 and plain common sense. Resultantly, the caste certificates relied upon by the petitioners to establish their eligibility and candidature in the reservation category of OBCs is legal and valid. The Caste Certificates are declared to be dependable and in accordance with the Central List of OBC for UT Administration, Chandigarh.

5. Resultantly, a direction is issued to the respondents to consider the case of the petitioners for appointment based on the Caste Certificates (OBC) furnished by them in support of their candidature as legal and valid. Let the exercise be now done within 30 days from the date of receipt of a certified copy of this order and fresh consideration be done in terms of this order. It is clarified that the cases of the petitioners be considered by treating the caste certificates legal and valid for the purpose of appointments, but subject to other formalities which are required by law and the rules to be adhered to and if they are otherwise eligible and suitable for appointment.

CWP No. 16627 of 2013

Learned counsel appearing in this writ petition has drawn the attention of this Court to an order passed by the learned Single Bench of this Court in CWP No. 12570 of 2013 decided on 31.5.2013. In that writ petition, the view taken by the respondents was assailed, but a direction was issued to the respondents to take a final decision on the legal notice dated 15.5.2013. As an aftermath of that order, the respondents have passed the order dated 11.6.2013 (Annexure P-17) rejecting the claim for appointment based on the same irrational reasoning which has been nullified by this court as above. In this view of the matter, the impugned order dated 11.6.2013 (P-17) is hereby quashed.

For the foregoing reasons, both the writ petitions are allowed in the above terms.