

(2021) 02 RAJ CK 0112
In the Rajasthan High Court
Case No : Civil Writ Petition No. 15531 Of 2019

Ramkunwar Vishnoi

APPELLANT

Vs

Jaipur Vidyut Vitran Nigam Limited And Ors

RESPONDENT

Date of Decision : 22-02-2021

Acts Referred:

Citation : (2021) 02 RAJ CK 0112

Hon'ble Judges : Dinesh Mehta, J

Bench : Single Bench

Advocate : Rajak Khan, Prateek Surana, Manoj Bhandari

Final Decision : Dismissed

Judgement

1. The petitioner has preferred the present writ petition, inter alia, seeking directions to the respondents to consider his candidature as an OBC - Non

Creamy Layer candidate and permit him to carry out correction in the date of birth.

2. The facts appertain are that the respondent-Jaipur Vidyut Vitran Nigam Limited, Jaipur (hereinafter referred to as 'the Nigam') issued an

advertisement (JVVNL/Karmil/Rectt./02/2018-19) for recruitment to the post of Helper Grade-II.

3. Petitioner submitted his application form in pursuance of the advertisement before the last date of application submission i.e. 21.09.2018.

4. According to the petitioner while submitting the application form, the person manning E-Mitra due to inadvertence, furnished incorrect particulars

qua his date of birth so also against the category. Though petitioner's actual date of birth is 08.08.1998, as is evident from the certificate of Class 10 th

issued by the Board of Secondary Education, Rajasthan, but the E-Mitra operator

however filled in his date of birth as 09.09.1998.

5. The crucial error or lapse which had crept in petitioner's application form was, that he has been shown as belonging to unreserved category,

whereas the petitioner purportedly intended to compete as an OBC - Non Creamy Layer candidate.

6. The result of written examination was declared on 08.03.2019. The petitioner found out that he has secured 84 marks in the General category,

exactly equal to the cut off marks of such category. But the petitioner was not offered appointment on account of he being younger amongst the

candidate securing 84 marks.

7. Thereafter petitioner realised that, had he filled his category as OBC - Non Creamy Layer, perhaps he would have been offered appointment, as

the cut off marks of OBC - Non Creamy Layer candidate was 83.

8. The petitioner then, submitted a representation dated 02.08.2019 - after five months of the declaration of the result, requesting the respondent -

Nigam to carry out requisite corrections in his application form, more particularly regarding his category and then, offer him appointment, as he has

secured more marks than the cut off declared for OBC - Non Creamy Layer category candidates.

9. The petitioner has raised a grievance that the Respondent - Nigam ought to have permitted him to carry out requisite corrections in his application

form and should have considered his candidature as an OBC - Non Creamy Layer candidate.

10. Learned counsel for the petitioner relied upon Division Bench judgment of this Court rendered in case of Kavita Choudhary Vs. Registrar,

Examination & Anr. (DBSAW No.1700/2017) dated 01.11.2017 and argued that in almost identical circumstances, a Division Bench of this Court had

directed the respondent - High Court to permit the concerned petitioner to appear in type test after issuing admit card. Reliance was also placed on

judgment dated 04.09.2019 rendered by Co-ordinate Bench of this Court in Asif Ali Khan Vs. State of Rajasthan & Anr. (SBCWP No.9455/2019) in

support of the prayer that respondent - Nigam be directed to consider his candidature as an OBC - Non Creamy Layer candidate.

11. Learned counsel appearing for the respondent - Nigam opposed petitioner's prayer and submitted that, this Court as well as the Division Bench, in

series of judgments has held that change of category is impermissible in law, particularly when the process of recruitment is over.

12. The facts of present case are not in dispute that the petitioner sprung into action five months after the final select list was issued.

13. So far as the Division Bench judgment rendered in case of Kavita Choudhary (supra) is concerned, facts thereof clearly show that the said

candidate had approached this Court even before type test was held and thus, the Division Bench while directing the respondents to issue her admit

card, permitted the concerned candidate to appear in the type test scheduled on the next date.

14. Similar was the position, in the case of Asif Ali Khan (supra), wherein the petitioner had approached the Court well within time and the

recruitment process was not yet over.

15. As against this, the petitioner herein has approached this Court belatedly-when the final select list has been issued.

16. A perusal of facts available on record shows that the petitioner, who has filled the application form in September, 2018, did not have certificate of

OBC - Non Creamy Layer, even by the last date of application form i.e. 09.09.2018, as petitioner's caste certificate (Annex.1) is shown to be issued

on 25.02.2019.

17. Such being the position, petitioner's assertion that he wished to apply as an OBC - Non Creamy Layer candidate, turns out to be factually

incorrect.

18. That apart, this Court in catena of decisions has taken a view that the change of category, at the advance stage of recruitment process is not

permissible. Such view has been affirmed by Division Bench of this Court. Reference of judgment in case of Pritam Kanwar Vs. State of Rajasthan

& Ors. (SB Civil Writ Petition No.7212/2017 decided on 04.08.2017 may be apt here. The relevant portion reads thus -

Wading through the aforesaid judgments, this Court is of the considered opinion that change in category is not permissible once the process has

commenced and more particularly, written examinations are over. In the present case, not only the examinations were over, even the selection process

is over. Any indulgence, if granted to the petitioner, at this stage, would be inequitable to other candidates, vying for the recruitment.

Going through the above referred judgments, it is clear that it has been consistent view of this Court that change of category, after submitting the application form is not permissible.

The petitioner having applied for the post of Junior Accountant cannot claim herself to be not aware about the seriousness and implications of the details furnished by her. While exercising the equitable or discretionary jurisdiction, this Court cannot afford to be oblivious of the nature of post, for which a candidate has competed. Such purported inadvertence or error cannot be accepted or tolerated for a candidate, who has applied for the post of Junior Accountant.

In view of above discussions, this Court neither finds any legal right of the petitioner for getting her category changed nor does it find it to be a case, warranting sympathetic considerations. The petition is thus dismissed summarily.

19. As an upshot of discussion aforesaid, the writ petition fails.

20. Stay application also stands disposed of.