

(2019) 03 CAT CK 0170

In the Central Administrative Tribunal

Case No : Original Application No. 310, 01339 Of 2012

Vijayakumar

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 22-03-2019

Acts Referred:

Citation : (2019) 03 CAT CK 0170

Hon'ble Judges : P. Madhavan, J;T. Jacob, J

Bench : Division Bench

Advocate : V. Ajayakuma, R. Syed Mustafa

Final Decision : Dismissed

Judgement

1. This is an OA filed seeking the following relief:-

"To call for the records of the first respondent with No.1953/Home/PPT.III/2007/Vol.II dated 29.10.2012 and to quash the same in respect of the selection and appointment of the respondents 3 to 5 and consequently direct the respondents 1 and 2 to appoint the applicant to the post of Fireman Driver Gr.III with effect from the date on which the other selected candidates are appointed with all other consequential benefits including Wages, Seniority etc. and to pass such other or further orders in the interest of justice and thus render justice."

2. The applicant's case is that the respondents had notified 12 vacancies of Fireman Driver Gr.III as per notification dated 01.11.2007 calling applications and the applicant being a member of OBC had applied for the above post. After the notification, on 23.8.2011, the first and second respondents had issued a corrigendum modifying the reservation of vacancies. As per the modified list, 0 vacancy was shown against OBC candidates but they had allotted 7 vacancies under General category, 4 vacancies under MBC and 1 under SC. After the corrigendum, the selection process was completed and a select list was published on 29.10.2012. The applicant was not selected eventhough he secured 48 marks. According to the applicant, the third, fourth and fifth respondents had secured

only lesser marks than the applicant i.e. 45%. So, according to the applicant, the appointment of the third, fourth and fifth respondents is illegal and seeks to quash the selection of the third, fourth and fifth respondents and to direct the respondents to appoint the applicant in any of the vacancies under UR quota.

3. The respondents appeared and filed a detailed reply stating the following facts. They admitted that Respondents 1 and 2 published a notification for recruitment of Fireman Driver Gr.III which is produced as Annexure A1 and as per the first notification, there were 6 UR vacancies, 2 MBC, 2 OBC and 2 SC vacancies. According to the respondents, subsequent to the notification the Government of Puducherry had reserved 2% vacancies to EBC candidates, 2% for BCM. On a verification of post based roster, the respondents found that only 1 vacancy remains in the SC Category, 4 posts in MBC and 7 vacancies in the General Category. Accordingly, a corrigendum had to be issued and the revised vacancy position was notified on 23.8.2011. The entire selection process was done very carefully with a view to ensure proper evaluation and utmost transparency. The entire process was verified and a list was published. According to the respondents, the applicant had applied to the post in OBC quota and his application was received considering the relaxation of age available to OBC Category. Since there is no vacancy available for OBC his case can be considered only under UR Category. The applicant in this case was born on 03.11.1974 and on the date of notification, the applicant was aged 31 years and 7 months. As per the age qualification notified, General candidate should be between 18 years and 30 years for consideration. So, the applicant is not eligible for appointment under General Category. So, there is no merit in the contention put forward by the applicant in this case. It was also contended by the counsel for the respondents that eventhough respondents 3 to 5 were impleaded, the applicant has not served notice on them and they were not heard in this case. So, the OA is liable to be dismissed.

4. The main contention of the counsel for the applicant in this case is that, there has taken place a change in the Recruitment Rules after notification and hence it has seriously prejudiced the applicant. The applicant who was a member of the OBC Community applied for the post believing that there exists 3 vacancies for the OBC. But as per the corrigendum dated 23.8.2011 (Annexure A2), the vacancies provided for OBC was changed to that of MBC and no quota is allotted for OBC. The applicant ought to have been considered under General vacancy. He had secured 48 marks i.e. more than the marks obtained by respondents 3 to 5 who came up in General quota. So, he is entitled to get appointment as claimed by him. Eventhough the counsel for the applicant submitted that he has decisions in support of his contentions, nothing was provided in support of his case.

5. On the other hand, the counsel for the respondents contents that there is no change in the rules of the game since even in the first notification it is clearly stated that there is chance for change in the vacancies and it was shown only as a tentative one. It was also mentioned that reservation and concession in the

recruitment will be extended only as per rules. The age qualification prescribed in the notification was between 18 years and 30 years. The applicant is not qualified for applying to the post in this ground also.

6. We have heard both the sides and anxiously gone through the pleadings of the applicant and the respondents. On going through Annexure A1 and A2, it can be seen that as per the first notification, there exists 2 vacancies under OBC Category and later the respondents 1 and 2 had issued a corrigendum stating that no vacancies exists under OBC and the quota has gone to MBC Category. It has also reduced the quota for SC from 2 to 1. The General Category went up by one post i.e. 7. This corrigendum was issued on 23.8.2011 and thereafter the written test was conducted and select list was published as Annexure A3. The respondents 3 to 5 were selected under UR Category. If we go through the pleadings of the applicant, it can be seen that he has applied for the post under OBC Category and his application was received on the basis of relaxation of age available to the applicant at that time. Since the OBC vacancies were not there, his application could not be considered in that Category and he can be considered only under UR Category if he is qualified for the same. According to the respondents, the applicant had crossed the age of 31 years and 7 months on the date of notification and he was not eligible for consideration under the UR quota. It is because of that the applicant could not get selected eventhough he had secured 48 marks. There is no substantial change in the rules of recruitment and there is no merit in the contention that rules of the recruitment was changed in between.

7. Owing to the above circumstances, we are of the view that the applicant has not succeeded in showing a satisfactory case in his favour.

8. The OA lacks merits and is liable to be dismissed. In the result, we hereby dismiss the OA. No costs.