

Karn Singh Yadav vs Govt. Of Nct Of Delhi on 24 January, 2020

Bench: Mohan M. Shantanagoudar, R. Subhash Reddy

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO.14948 OF 2016

KARN SINGH YADAV

... Petitioner

VERSUS

GOVT. OF NCT OF DELHI & ORS.

... Respondent

O R D E R

Delay condoned.

Respondent No.2-Delhi Subordinate Services Board issued advertisement No.09/2007, inviting applications for recruitment to the vacant posts in the Subordinate Services. Claiming to be an OBC candidate, the petitioner submitted his application without enclosing a certificate from the competent authority, though before the cut-off date notified in the advertisement. As the petitioner did not submit the required certificate from the competent authority before the cut-off date, he was not treated as an OBC candidate. Hence, the petitioner was not issued an appointment letter, though he secured marks above the cut-off point in the OBC category.

The petitioner attempted to claim inclusion in the OBC category by producing the required caste certificate after the cut-off date, i.e., January 21, 2008. When such claim was not accepted by the respondents, he approached the High Court of Delhi by way of filing a writ petition, which was dismissed by the impugned order.

During the course of hearing learned counsel for the petitioner brought to the notice of this Court, a two-Judge Bench judgment in the case of Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board & Anr. reported in (2016) 4 SCC 754, wherein this Court has held that claims for inclusion in the OBC category can be considered even in cases where certificates were not produced by the applicants before the cut-off date notified in the advertisement. Thus this Court in Ram Kumar Gijroya (supra) held that the Division Bench of the High Court erred in not considering the decision rendered in the case of Ms. Pushpa vs. Government, NCT of Delhi & Ors. [2009 SCC OnLine Del. 281].

We have heard learned counsel on both sides and perused the record including the judgment of this Court in the case of Ram Kumar Gijroya (supra). In the case of Ms. Pushpa (supra), which was referred to in Ram Kumar Gijroya (supra) though the applicant had moved an application much prior to the date of the advertisement, the office of the competent authority took considerable time to make the required OBC certificate available. It was in such circumstances that the learned Single Judge of the Delhi High Court held that the applicant cannot be made to suffer for lapse on part of the SDM office in issuing the OBC certificate. In the case of Gaurav Sharma v. State of U.P. & Ors. reported in AIR 2017 All 116, a Full Bench of Allahabad High Court disagreed with the view expressed in the case of Ms. Pushpa (supra) and held that even claims made under OBC category are to be made before the cut-off date prescribed in the advertisement. In the case of Rakesh Kumar Sharma v. State (NCT of Delhi) & Ors., [(2013) 11 SCC 58], this Court has held that eligibility criteria/conditions are to be considered on the last date of receipt of applications.

In view of the acute problem of unemployment, whenever few vacancies are notified by any public authority, it is common that thousands of applicants apply for such posts. If the applicants are permitted to rectify applications after cut-off dates, the same would render the scrutiny process indefinite. In the course of such recruitment process, many persons, though they belong to the OBC category or SC/ST category, might not have obtained the required caste certificate before the cut-off date. Such persons, being law abiding and being conscious of the bar contained in the notification of the cut-off date, might not have applied seeking employment. In case the authority starts accepting caste certificates subsequent to the prescribed cut-off dates whenever a candidate approaches the authority, the remaining candidates who had not applied would definitely be affected. If the applicants are allowed to submit certificates in proof of their claim of reservation subsequent to the notified cut-off date, it would create administrative chaos.

In practice, for every advertisement, there are such belated claims claiming reservation, though the candidates did not submit certificate from the competent authority, before the cut-off date. In view of the general importance of the question, we are of the view that the issue which fell for consideration in the case of Ram Kumar Gijroya (supra) requires to be considered by a larger Bench of three-Judges.

Accordingly, we refer the matter for consideration by a larger Bench of three Judges. Registry to place the papers before Hon'ble the Chief Justice for appropriate orders.

.....,J.

(Mohan M. Shantanagoudar)J.

(R. Subash Reddy)

New Delhi
January 24, 2020
ITEM NO.41

COURT NO.12

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C)

No(s). 14948/2016

(Arising out of impugned final judgment and order dated 07-01-2013 in WPC No. 55/2013 passed by the High Court Of Delhi At New Delhi) KARN SINGH YADAV Petitioner(s) VERSUS GOVT. OF NCT OF DELHI & ORS. Respondent(s) (IA No. 1/2016 - CONDONATION OF DELAY IN FILING IA No. 2/2016 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS) Date : 24-01-2020 These matters were called on for hearing today. CORAM : HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR HON'BLE MR. JUSTICE R. SUBHASH REDDY For Petitioner(s) Mr. Rameshwar Prasad Goyal, AOR Mr. Rajender Yadav, Adv.

Mr. Asit Tiwari, Adv.

For Respondent(s)

Ms. Pinky anand, ASG
Mr. V. Sekhar, Sr. Adv.
Mr. V. Balaji, Adv.
Mr. B.V. Balramdas, Adv.
Mr. B. Krishna Prasad, AOR

UPON hearing the counsel the Court made the following O R D E R Delay condoned.

In terms of the signed order the matter is referred for consideration by a larger Bench of three Judges. Registry to place the papers before Hon'ble the Chief Justice for appropriate orders.

(GULSHAN KUMAR ARORA)
COURT MASTER

(R.S. NARAYANAN)
COURT MASTER

(Signed order is placed on the file)