

V. Mary Ajitha Vs. Delhi Subordinate Services Selection Board

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Court : Delhi

Decided On : May-10-2011

Judge : Rajiv Sahai Endlaw, J.

Appeal No. : W.P.(C) 2420/2011

Appellant : V. Mary Ajitha

Respondent : Delhi Subordinate Services Selection Board

Advocate for Def. : Mr. H.S. Sachdeva, Adv.

Advocate for Pet/Ap. : Mr. Subhash Mohanty, Adv.

Judgement :

1. The respondent DSSSB had in the year 2009 advertised for various posts in the Government of NCT of Delhi (GNCTD). The petitioner claiming to be in the OBC category claims to have applied for the post of Staff Nurse (Female). It is the case of the petitioner that despite securing more marks than the last candidate in the OBC category, recommended for appointment to the said post, the petitioner has not been so selected.

2. A perusal of the advertisement at pages 16 & 24 of the paper book shows that the OBC candidates "seeking benefit of reservation were required to submit OBC certificate issued by the competent authority of the GNCTD" along with their application forms. The petitioner admittedly did not submit the OBC certificate

issued by the competent authority of the GNCTD and on the contrary submitted an OBC certificate issued by the competent authority of Tamil Nadu. Though the petitioner claims to have now applied to the competent authority of the GNCTD for the said certificate but the counsel for the petitioner states that the same has not been issued as yet.

3. The counsel for the petitioner has with reference to the application form which also required it to be stated whether the applicant was from Delhi or an outsider, sought to contend that once the applications were invited from those belonging to outside Delhi also, the OBC certificate issued by competent authority of the government of Tamil Nadu ought to have been accepted.

4. There is no merit in the said contention. The language as aforesaid of the advertisement inviting applications is quite clear. For the applicants applying in the reserved category, the requirement was of submitting the OBC certificate issued by the competent authority of the GNCTD and not of any other place or State. The question is no longer *res integra* having been subject matter of *Subhash Chandra v. Delhi Subordinate Services Selection Board* (2009) 15 SCC 458.

5. The counsel for the petitioner has next sought to rely upon the judgment of the Division Bench of this Court in *Hari Singh v. Staff Selection Commission* 2010 V AD (Delhi) 599. In that case however the terms had been relaxed and time had been given to produce the OBC certificate. There is no such plea in the present case.

6. The counsel for the petitioner has also referred to the judgments cited at page 7 and 8 of the writ petition. However, in the present case the language of the advertisement inviting applications being clear and the petitioner having admittedly not complied therewith, the said judgments would not apply.

7. The counsel for the petitioner has lastly referred to the undertaking, draft form whereof is at page 42 of the paper book, which the applicants were required to furnish. The reference to the said form/undertaking is contained at page 24 of the paper book, where it is provided that candidates seeking reservation as OBC have to submit a declaration in the prescribed format that he / she does not belong to

the creamy layer on the crucial date, in addition to the community certificate. The counsel for the petitioner has sought to contend that the said undertaking was a substitute for the OBC certificate from the competent authority of the GNCTD.

8. The said argument cannot be accepted; as apparent from page 24 of the paper book, that undertaking was only required for the purpose of not belonging to the creamy layer on the crucial date, and was not intended to be a substitute for an OBC certificate issued by the competent authority of the GNCTD.

There is no merit in the petition. The same is dismissed. No order as to costs.

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