



2025:DHC:8502-DB



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

***Reserved on: 19.08.2025***  
***Pronounced on: 24.09.2025***

+ **W.P.(C) 2018/2019**

AMJAD KHAN

..... Petitioner

Through: Mr. M. S. Saini, Adv.

versus

THE CHAIRMAN, DELHI SUBORDINATE SERVICES  
SELECTION BOARD & ORS

..... Respondents

Through: Mrs. Avnish Ahlawat, SC with  
Mr. Nitesh Kumar Singh, Adv.  
for R-1 & R-3  
Ms. Sangeeta Chandra, SC for  
R-2/MCD.

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**HON'BLE MS. JUSTICE MADHU JAIN**

### **J U D G M E N T**

**NAVIN CHAWLA, J.**

1. The present writ petition has been filed by the petitioner seeking the following reliefs: -

- “(i) calling for the records; and*  
*(ii) To set aside and quash the impugned Judgment Order dated 06.12.2018 (Annexure P-1) passed by the Central Administrative Tribunal (PB), New Delhi in OA No. 574/2017 dismissing the O.A of the Petitioner;*  
*(iii) To set aside and quash the impugned Rejection Notice dated 19.05.2016 & Order dated 07.12.2016 issued by Respondent No. 1 (DSSSB);*



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*(iv) To direct the Respondents to issue offer of appointment to the Petitioner and appoint him as TGT (Maths) Male Post Code 110/12 under OBC Category in the Directorate of Education.*

*(v) To direct the Respondents to grant all the consequential benefits to the Petitioner;*

*(vi) to award cost in favour of the Petitioner and against the Respondents;*

*(vii) to pass any other order/s or direction or writ in the appropriate as deemed fit and proper nature in the facts and circumstances of the case.”*

**FACTS OF THE PRESENT CASE:-**

2. It is the case of the petitioner that the respondents advertised vacancies for the post of TGT (Maths) Male under Post Code 110/12, LDC under Post Code 48/12, as well as several other posts, through Advertisement No. 02/2012. In the advertisement, the opening date for submission of offline application forms was mentioned as 15.05.2012, and the closing date as 15.06.2012. Out of a total of 171 vacancies for the post of TGT (Maths), 43 were reserved for the Other Backward Classes (OBC) Category.

3. The petitioner submitted his offline application form on 15.06.2012 at the office of the Delhi Subordinate Services Selection Board (DSSSB) under the OBC Category for both the above posts.

4. Before submitting his application form with the DSSSB, the petitioner, on 14.06.2012, that is, prior to the last date of submission of the application, had applied to the Sub-Divisional Magistrate (SDM), Preet Vihar, for the issuance of an OBC Certificate. He



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enclosed the receipt of making such application with the DSSSB with his form. The caste certificate, however, was issued only on 28.06.2012. The petitioner claims that the delay in issuing the OBC certificate was attributable solely to the office of the SDM.

5. On 24.10.2014, the DSSSB called upon all the applicants to re-submit their applications online. The petitioner submitted his online application within the stipulated time. He was issued an Admit Card on 16.12.2014, appeared in the examination held on 28.12.2014, and secured 90.25 marks, well above the cut-off of 71.75 for the OBC Category for the post of TGT (Maths). A merit list was thereafter published, in which the petitioner's name appeared at Serial No. 18.

6. The petitioner was called for the document verification on 01.02.2016, wherein he produced the valid OBC Certificate and informed the officials that the application for the same had been made before the cut-off date. However, on 19.05.2016, the respondents issued the final result and rejection list, wherein the petitioner's name appeared in the rejection list with the remark "OBC certificate issued after the cut-off date".

7. Aggrieved thereby, the petitioner submitted a representation dated 23.05.2016, which was not decided. He, therefore, filed O.A. No. 2097/2016 before the learned Tribunal. The learned Tribunal, by its Order dated 14.06.2016, directed the respondents to consider the petitioner's representation and pass a reasoned order within four weeks, while further directing the respondents not to fill up one vacancy to the post.



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8. Despite the above directions, the respondents neither complied with the order nor kept one post reserved for the petitioner.
9. Left with no option, the petitioner filed a Contempt Petition, which was closed by the learned Tribunal on 09.12.2016 in view of the respondents' Order dated 07.12.2016 rejecting the petitioner's claim on the ground that the OBC Certificate was not submitted prior to the cut-off date. The learned Tribunal, however, granted liberty to the petitioner to challenge the said order.
10. Being aggrieved by the rejection of his candidature, the petitioner filed the above-mentioned O.A. before the learned Tribunal, which came to be dismissed *vide* the Impugned Order.
11. Aggrieved thereby, the petitioner has approached this Court by way of the present writ petition.

**SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER: -**

12. The learned counsel for the petitioner submits that in the present case, the petitioner had applied for obtaining the OBC Certificate before the cut-off date. However, due to administrative reasons, the OBC certificate was not issued to the petitioner before the cut-off date. The petitioner, therefore, while filling up his application form, attached the acknowledgement of having applied to the Competent Authority for issuance of the OBC Certificate. He further submits that the respondents once again invited online applications and required documents to be submitted on the online portal by 24.10.2014, which



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date was later extended to 17.11.2014. The petitioner duly complied with the said requirement and uploaded the requisite certificate, pursuant to which the respondents issued the Admit Card to him.

13. It is further submitted that the petitioner had also applied for the post of LDC on the same basis, that is, by submitting the acknowledgment of having applied for the certificate along with his original application and by uploading the certificate when required in the online mode. His candidature was duly considered for the OBC category for the post of LDC, however, it was arbitrarily rejected for the post of TGT (Maths).

14. The learned counsel for the petitioner places reliance on the DoP&T OM dated 08.10.2015 and submits that the same specifically provides that where a candidate belongs, *inter alia*, to the OBC category but is unable to produce a certificate from the prescribed authority, he/she may be appointed provisionally on the basis of whatever *prima facie* proof he/she is able to produce in support of his/her claim, subject to furnishing of the prescribed certificate within a reasonable time. He submits that, therefore, the mere non-production of the OBC Certificate by the cut-off date, cannot result in the disqualification of the petitioner, particularly in view of the fact that he had scored marks much above the cut-off in the examination and was, therefore, a meritorious candidate.

15. Placing reliance on the Judgments of the Supreme Court in ***Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board & Anr.***, (2016) 4 SCC 754; ***Karan Singh Yadav v. Govt of NCT of***



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*Delhi & Ors.*, 2022 INSC 1031; and of this Court in *Pushpa v. Govt of NCT of Delhi & Ors.*, 2009 SCC OnLine Del 281, he submits that there is no dispute that the petitioner belongs to the OBC category and, therefore, a mere delay in obtaining the certificate from the Competent Authority cannot disentitle the petitioner from appointment.

**SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS:-**

16. On the other hand, the learned counsel for the respondent nos.1 and 3 submits that the Advertisement clearly stated in Clause 5(ii) of Section C that candidates who were to be considered against the reserved vacancy must submit duly attested copies of the relevant certificates issued to them on or before the closing date by the Competent/Notified Authority (in the prescribed form) along with the application form; otherwise, their claim for being considered against the reserved category would not be entertained.

17. She submits that Clause 7(b)(iii) of the Advertisement further stated that the documents to be attached with the application, include the OBC Certificate in the prescribed form certifying that the candidate did not belong to the Creamy Layer on the crucial date. The candidates were further warned that, in case the documents were not submitted along with the application form, their candidature for the concerned post would be cancelled. The same condition was again contained in Clause 8(q) of the Advertisement. She submits that,



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admittedly, the petitioner did not submit his OBC Certificate at the time of filing the application and before the cut-off date. His candidature was, therefore, rightly rejected by the respondents, and such rejection has been rightly upheld by the learned Tribunal.

18. She submits that the eligibility of a candidate has to be determined as on the cut-off date prescribed in the Advertisement. In support of her submissions, she places reliance on the Judgments of the Supreme Court in *Ashok Kumar Sonkar v. Union of India & Ors.*, (2007) 4 SCC 54; *Rakesh Kumar Sharma v. State (NCT of Delhi) & Ors.*, (2013) 11 SCC 58; *Bhupinderpal Singh & Ors. v. State of Punjab & Ors.*, (2000) 5 SCC 262; *State of Bihar & Ors. v. Madhu Kant Ranjan & Anr.*, (2021) 17 SCC 141; *Divya v. Union of India & Ors.*, (2024) 1 SCC 448; and, *Sakshi Arya v. Rajasthan High Court & Ors.*, 2025 SCC OnLine SC 757.

19. Placing reliance on the Judgments of the Supreme Court in *Divya* (supra) and *Sakshi Arya* (supra), she submits that the OBC Certificate is dynamic in nature and must be valid on the last date of the application, and that a certificate issued after the cut-off date cannot be accepted. She submits that the present petition deserves to be dismissed.

#### **ANALYSIS AND FINDINGS: -**

20. We have considered the rival submissions of the learned counsels for the parties and perused the record.

21. From the above narration of facts, what is undisputed is that the petitioner is an OBC candidate; however, he did not possess the OBC



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Certificate in the prescribed form as on the cut-off date of the Advertisement. The cut-off date was 15.06.2012, whereas the petitioner applied for the certificate only on 14.06.2012. The effect of the non-submission of the OBC Certificate, therefore, falls for determination in the present petition.

22. It is not disputed that along with his application, the petitioner had submitted proof of having applied to the concerned authority for the issuance of the OBC Certificate in his favour. It is also not disputed that such a certificate was issued in his favour on 28.06.2012, *albeit* post the cut-off date prescribed in the application. However, this is not the end of the matter. The DSSSB called upon the candidates to submit online applications for the post by 24.10.2014. At this stage, while submitting his online application, the petitioner duly submitted the OBC Certificate. The same was considered by the respondents, and he was, in fact, appointed to the post of LDC on the very same basis. It has not been explained by the respondents as to why the petitioner was considered eligible for appointment to the post of LDC on the basis of the same OBC Certificate, while his candidature was rejected for the post of TGT (Maths) Male.

23. That apart, the fact remains that the petitioner had applied for the grant of the OBC Certificate before the cut-off date, *albeit* just one day prior; had submitted proof of such application along with his form; and that his entitlement to be considered as an OBC candidate stood certified by the Competent Authority by the issuance of the OBC Certificate in the prescribed form on 28.06.2012, that is, much





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before the respondent/DSSSB itself again called upon the candidates to re-apply online along with documents.

24. The respondent's reliance on para 5(ii) of Section C of the Advertisement requiring submission of Certificates before the closing date cannot be read in isolation or applied mechanically. Procedural requirements must yield to substantive justice where the eligibility of a candidate is otherwise established and undisputed. As held by the Supreme Court in *Pushpa* (supra), eligibility and the proof of eligibility are distinct concepts, and delayed production of proof cannot defeat substantive rights.

25. While there can be no dispute with the proposition that the eligibility of a candidate is to be determined, if no other date is prescribed in the Recruitment Rules or in the Advertisement, as on the cut-off date or the last date of making an application under the Advertisement, at the same time, where the respondents themselves had called upon the candidates to re-submit the application and, in fact, considered the candidature of the petitioner for another post, that is, of LDC, the strict adherence to this condition was no longer warranted.

26. In *Ram Kumar Gijroya* (supra), the Supreme Court held that, keeping in mind the object and purpose of providing for reservation in public appointment, the matter is to be examined not in a pedantic manner but in the backdrop of such object.

27. In *Sakshi Arya* (supra), the Supreme Court, while not disagreeing with the above judgment, had distinguished the same,



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*inter alia*, on the ground that the candidate had applied for an NCL category certificate, and the issuance of the same had been initiated at the behest of the Competent Authority. The same distinction applies to the facts of the present case.

28. In view of the above, and in the peculiar circumstances of the present case, we are of the opinion that the Impugned Order passed by the learned Tribunal cannot be sustained. It is, accordingly, set aside.

29. The respondents are directed to consider the case of the petitioner for appointment to the post of TGT (Maths) Male under Post Code 110/12 pursuant to Advertisement No.02/2012, in accordance with his merit in the OBC category, and in case he is found eligible for such appointment, to issue the appointment letter to the petitioner, granting him notional seniority and other consequential benefits, within a period of eight weeks from today.

30. It is, however, made clear that in case the petitioner is held entitled to appointment, he shall not be entitled to any actual salary for the period prior to his appointment to the said post.

31. The petition is disposed with the above directions.

32. There shall be no order as to costs.

**NAVIN CHAWLA, J.**

**MADHU JAIN, J.**

**SEPTEMBER 24, 2025/Arya/ns/DG**