



2025:DHC:3013-DB



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

*Date of decision: 28.04.2025*

+ W.P.(C) 17740/2024

STAFF SELECTION COMMISSION .....Petitioner

Through: Ms. Bharathi Raju, SPC (UoI).

versus

SMT BALA .....Respondent

Through: Mr. Rakesh Kumar & Mr.  
Ramesh Babu, Advs.

**CORAM:**

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

**HON'BLE MS. JUSTICE RENU BHATNAGAR**

**NAVIN CHAWLA, J. (ORAL)**

**CM APPL. 75493/2024 & CM APPL. 75494/2024 (Exemption)**

1. Allowed, subject to all just exceptions.

**W.P.(C) 17740/2024 & CM APPL. 75492/2024 (Stay)**

2. This petition has been filed by the petitioner, challenging the Order dated 02.04.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in Original Application No. 3316/2016 titled *Smt. Bala v. Staff Selection Commission (Head Quarter)* ('O.A.'), allowing the said O.A. filed by the respondent herein with the following direction:

*“ 12. Accordingly, we allow the present OA quashing the action of the respondents in cancelling the candidature of the applicant*



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*and direct them to revive her candidature and thereafter, take further consequential action of giving her offer of appointment subject to her meeting all other qualifications and eligibility criteria. While determining the eligibility and qualification of the applicants, it is made clear that it will be done for all other parameters except her OBC status which has been established by way of this Order.*

*13. In the event of the applicant having qualified and meeting other eligibility criteria, necessary offer of appointment to the post of MTS will be given to her with effect from the date last of the candidates selected pursuant to the subject selection examination was appointed.*

*14. The applicant, if appointed, shall be entitled to consequential benefits, albeit on notional basis from the date of appointment and on actual basis from the date she assumes charge of her position.*

*15. The directions contained herein shall be complied with within a period of twelve weeks from the date of receipt of a certified copy of this Order.*

*There shall be no order as to costs.”*

3. As a brief background of the facts in which the present petition arises, the petitioner had issued an Advertisement for recruitment to the post of Multi-Tasking (Non-Technical) Staff in different States and Union Territories-2013 on 10.11.2012. The respondent qualified in the Written Examination and was called to appear for the Document Verification on 16.12.2013. Her candidature, however, was rejected by the petitioner by stating that the OBC certificate furnished by the respondent was not in the prescribed format.





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to produce the required caste certificates “in the prescribed format” in support of their claim at the time of the application. She submits that the format was prescribed in the form of Annexure-VII to the Recruitment Notice. She further submits that in the present case, the Caste Certificate dated 28.01.2013 produced by the respondent along with her application, was not in the prescribed format and, therefore, the candidature of the respondent was rightly rejected. In support of her submissions, she places reliance on the judgement of the Supreme Court in *Union of India & Ors. v. Probir Ghosh & Ors.*, (2022) 12 SCC 250.

6. She further submits that the caste certificate that had been produced by the respondent along with her application was certifying the caste of the respondent on the basis of the caste of her husband, and the same is not permissible. In support she places reliance on the judgement of the Supreme Court in *Sunita Singh v. State of Uttar Pradesh & Ors.*, (2018) 2 SCC 493.

7. She submits that by way of an additional affidavit, the respondent had placed before the learned Tribunal a caste certificate dated 26.08.2002 issued by the Tehsildar, District Alwar, Rajasthan, which was issued by the concerned authority much before the date of the Recruitment Notice and, therefore, could not have been considered as a valid certificate in the recruitment process of 2013, which required the certificate to be issued not beyond three years prior to the date of the recruitment process. In support, she places reliance on the judgement of the Supreme Court in *T. Jayakumar v. A. Gopu & Anr.*,





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time of her application was not in the prescribed format. However, it did certify that she belongs to 'Ahir' Community, which is recognised as an Other Backward Class by the Government of India. This was also admitted by the petitioners before the learned Tribunal.

11. Merely because, in the Caste Certificate, the respondent was described as being the wife of Sh. Inder Jeet rather than as the daughter of Sh. Hardwari Lal, does not lead to an inference that her caste certificate was based on the caste of her husband. In fact, before the learned Tribunal, there was no dispute raised by the petitioner to the fact that the respondent belongs to an Other Backward Class notified by the Govt. of India. The caste certificate also certifies that the respondent did not belong to the creamy layer, which also was not disputed.

12. The only dispute raised by the petitioner was that the caste certificate was not in the prescribed form. We are of the opinion that it is the substance and not the form that determines the eligibility of the candidate for a post, especially in matters of public employment. The format in which such certificates are issued by various State Governments is not in the hands of the applicants. They cannot be penalised or denied public employment merely because the certificate issued by the State Government is not in the format that has been prescribed by the recruiting agency. As long as the certificate certifies the substance of the requirements prescribed, the opportunity of recruitment should not be denied by the State on mere technicalities of format.



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13. In fact, the learned counsel for the respondent has drawn our attention to the Office Memorandum bearing no. 36011/1/2012-Estt.(Res.) dated 08.10.2015, and Circular bearing no. 36011/1/2012-Estt.(Res.) dated 14.03.2016, by which the Department of Personnel & Training, Ministry of Personnel, Public Grievances & Pensions, Govt. of India has instructed the recruiting agencies not to reject the candidature of persons belonging to the reserved communities only on the ground that such candidate is unable to produce a certificate of any prescribed authorities in the prescribed format.

14. We quote form the Circular dated 14.03.2016, as under:

*“ 2. Owing to difficulties faced by candidates, belonging to these reserved communities in various states in securing employment due to delays in obtaining caste certificates, this Department, vide an Office Memorandum of even number dated 08.10.2015, has re-iterated the instructions on providing provisional appointment to such reserved category candidates who are unable to obtain an appropriate caste certificate in time. It has been reiterated therein that where a candidate belonging to a Scheduled Caste, Scheduled Tribe or Other Backward Class is unable to produce a certificate from any of the prescribed authorities, 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 his/her furnishing the prescribed certificate within a reasonable time. If there is genuine difficulty in his/her obtaining a certificate, the appointing authority should itself verify his/her claim through the District Magistrate concerned. A copy of the OM is enclosed for reference and perusal*





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*appointment under the Govt. of NCT of Delhi and belonged to the non-creamy layer. Merely because the Deputy Commissioner of the petitioner while issuing the certificate in favour of the respondent stated therein that the certificate was being issued for the purpose of employment under the Government of India would not change the fact that she belonged to the Teli community, which as per the own case of the petitioner was recognized as an OBC community for employment under the list maintained by the Govt. of NCT of Delhi.”*

16. In ***Neeraj Kumar Prasad*** (supra), again, this Court rejected an argument similar to the one raised by the petitioner herein, by observing as under:

*“17. In the facts and circumstances, certainly the petitioner cannot be denied employment at this stage on the specious ground that the certificate was not in the prescribed format or the certificates submitted belatedly.*

*18. In the given facts and circumstances, we feel that grave and unwarranted injustice has been done to the petitioner. He has been made to run from pillar to post without any fault on his part despite the admitted factual position especially with regard to the caste of his father and the fact that his father was recruited under the Other Backward category and continues to be so even on date. The petitioner's certificates were also unfairly doubted. The respondents also unreasonably sat over the matter for several days.”*

17. In ***Divya Kalia*** (supra), the Punjab & Haryana High Court also held that prominence has to be given to the substance rather than the



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format, by observing as under:

*“9. It is trite law that a candidate, seeking public employment, must possess the requisite mandatory qualification(s) as on the prescribed cut-off-date. The Three Judge Bench judgment of Hon’ble Supreme Court in the case of Ashok Kumar Sharma (supra) and Bedanga Talukdar (supra) unequivocally enunciates that the eligibility of a candidate is required to be adjudged with scrupulous reference to the cut-off date and that date alone. A person, who acquires the requisite prescribed qualification, subsequent to such a prescribed cut-off date, renders himself ineligible and cannot be shown any relaxation unless the extant rules so provide. As a pivotal imperative pre-requisite thereof, a candidate is pertinently required to possess the mandatory qualification(s), as sought for by the concerned selecting/examining agency, on the cut-off-date; whereas, acquiring them subsequently would not render such a candidate eligible & failure therein would incur in consequential penal effect(s).*

*The general rule, thus, is that a candidate must deposit all requisite certificate(s) etc. at the time of submitting his application form and he ought not to be permitted to rectify such certificate(s). However, possession of a qualification is starkly distinct from the proof thereof. Hon’ble Supreme Court in the case of Charles K Skaria (supra) has held that what is essential is the possession of a qualification before the concerned date and mode of proof thereof, is ancillary. Following this dicta; the Hon’ble Supreme Court in the cases of Dolly Chhanda (supra), Ram Kumar Gijroya (supra) and Karan Singh Yadav (supra) has carved out exception(s) when it relates to submission of a certificate/testimonial with a technical defect/irregularity, which was beyond the reasonable control of such candidate(s). It is*



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*an unshaken canon of our jurisprudence that when substantial and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred. Procedural and technical hurdles ought not to be allowed to stand in the way of substantial justice. It must be grasped that the concept of substantial justice is respected not on account of its power to legalize an otherwise injustice configured so endowed with a sceptre nay SENGOL on technical grounds; but because it is for striking out and is expected to do so. If the procedural violation does not cause prejudice to anyone else, the concept of substantial justice requires that the Courts/authorities must lean towards effectuating justice rather than relying upon procedural and technical violations. When substantial & procedural considerations stand in opposition, the former must invariably prevail, for justice is not a mere mechanical exercise but a tangible pursuit of truth & fairness. The dicta of these judgments, essentially, grants a latitude to the reserved category aspirants, treating the submission of irregular/technically defective certificate(s) being essentially procedural lapse(s) which may be condoned, in view of the facts involved. The common denominator, which runs through these decisions is that, even when correct requisite certificate(s) were allowed to be submitted belatedly, such candidate did actually possess such qualification on the cut-off-date. In other words, the Apex Court has enunciated that such certificate(s)/testimonial(s) were proof of an attribute which the candidate already possessed of and such attribute was not attained after the cut-off-date.*

*Judicial notice can well be taken by this Court that, such reservation certificate(s) are, more often than not, issued at the end of the*



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*concerned authority(s) and a candidate does not have any say nay authoritative say in issuance thereof. In actual life, it is often exasperatingly cumbersome for a candidate to obtain requisite certificate nay one issued in the exact prescribed form from the concerned authority. A technical irregularity/defect in such certificate(s) issued by the concerned competent authority is, thus, beyond the control of an aspirant. Actual excellence or even basic eligibility, thus, cannot be permitted to be obliterated by the choice of an orthodox interpretation of law and procedure. Equity ought to overpower technicality where the justice so demands. In the realm of writ jurisdiction, courts are duty bound to uphold the paramount cause of substantial justice, ensuring that the dispensation of justice is not thwarted by mere technicalities. While procedural considerations serve as necessary safeguards to ensure orderly adjudication, they must never be exalted to the extent that they eclipse the fundamental tenets of fairness, equity and justice or even moribund the cause of justice. The Court, as a sentinel of justice, must wield its discretionary power to prevent miscarriage of justice arising from rigid adherence to procedural formalities. Equity, being the soul of justice demands that the courts adopt a liberal and pragmatic approach, ensuring that the form does not triumph over the substance. A constitutional court, vested with extra-ordinary jurisdiction, must, therefore, eschew hyper-technical reasoning and focus on the broader ends of justice, for the law must ever remain a handmaiden to justice & not an instrument of oppression or procedural entanglement.*

*10. A conundrum faced by the selecting/examining agency in such a scenario, seeks attention, namely; granting latitude to the candidate(s) for submission of*





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*earliest opportunity lest the timeline itself may non-suit such candidate. No exhaustive set of such circumstances/cause(s) can possibly be laid down however alluring this aspect may be. It is neither fathomable nor desirable to lay down any straight jacket formula in this regard. Any attempt in this case would be, to say the least, quixotic endeavour. Circumstantial flexibility, one additional or different fact, may make a sea of difference between conclusions in two cases. Such exercise would thus, indubitably, be dependent upon the factual matrix of a particular lis, since every case has its own peculiar factual conspectus.*

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*12. Before parting with this order, another aspect of the lis in hand craves attention. In discharging its role as a litigant, the State (as also its instrumentalities) must adopt a balanced and judicious approach, resisting the temptation to oppose the claims indiscriminately. The State must exercise due diligence in distinguishing between a baseless and a legitimate claim. While it is justified in defending itself against spurious claims, this duty must be discharged with a sense of responsibility. The Constitutional framework envisions the State as a Welfare State, which is inherently obligated to act in the best interest of its citizens. In litigation involving the State and its citizens, this welfare-oriented ethos must guide the State's conduct. Unlike a private litigant, whose sole objective is often to secure a favourable judgment, the State bears a higher responsibility to ensure that justice is served, consistent with the principles of fairness and equity.*

*The Courts across the legal system — this Court being not an exception — are choked with litigation. Frivolous and groundless*



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*dispute(s) constitute a serious menace to the administration of justice. They consume time and clog the overburdened infrastructure. Productive resources, which should be deployed in the handling of genuine causes, are dissipated in pursuing worthless cause(s). In our jurisprudential eco-system, the State is the largest litigant today and the huge expenditure involved makes a big draft on the public exchequer. The present case is an unsoothing illustration of, how litigations are pursued on behalf of the State (HPSC, to be more precise, in the case in hand), in a totally mechanical and indifferent fashion. The proceedings reveal a lack of due diligence, reflective of an apathetic approach that undermines the principles of responsible governance & judicial propriety. Such conduct reflects an absence of serious application of mind, resulting in an unwarranted litigation that burdens the judicial system. This tendency can be curbed only if the Courts across the system adopt an institutional approach which penalizes such comportment. The imposition of costs, is a necessary instrument, which has to be deployed to weed out, such an unscrupulous conduct. Ergo, this Court deems it appropriate to saddle HPSC with costs, which indubitably ought to be veritable and real time in nature.”*

18. In ***Probir Ghosh*** (supra), the Supreme Court also highlighted that the power to issue certificates vests with the officers of the State Government and there is no uniformity in this regard. The Supreme Court held that, therefore, some leverage has to be given in these issues. However, in the facts of that case the Court found that the certificate on which reliance was being placed may not have been placed along with the application and, therefore, denied relief. We



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quote from the judgement as under:

*“49. It is true that the power to issue caste certificates vests with the officers of the State Government and that there is no uniformity in this regard. Therefore, some leverage has to be given.”*

19. As far as the plea of the learned counsel for the petitioner that the additional caste certificate dated 26.08.2002 , which was produced by the respondent by the way of an additional affidavit before the learned Tribunal, could not have been relied upon by the learned Tribunal in the Impugned Order, is concerned, we may only state that the Impugned Order does not reflect that it was passed in favour of the respondent based on that certificate. The learned Tribunal has, in fact, based its order on the certificate which was produced by the respondent at the time of her application. Therefore, the judgement in ***T. Jayakumar*** (supra) is of no avail to the petitioner.

20. Similarly, the plea of the learned counsel for the petitioner that it is the caste of the father of the respondent that would determine her OBC status, is also not disputed. The respondent was not claiming her OBC status on the basis of the caste of her husband but rather, on the basis of caste of her father alone. In fact, as noted hereinabove, there was no dispute on this aspect raised by the petitioner before the learned Tribunal.

21. In view of the above, we find no merit in the present petition.



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22. The same, along with the pending application, is accordingly dismissed.

**NAVIN CHAWLA, J**

**RENU BHATNAGAR, J**

**APRIL 28, 2025** /Pr/Kz/SJ

*Click here to check corrigendum, if any*