



GOVERNMENT OF NCT OF DELHI
Delhi Subordinate Services Selection Board
FC-18, INSTITUTIONAL AREA, KARKARDOOMA, DELHI-110092
Website: www.dsssb.delhigovt.nic.in

No.:- F. No. (8484)/LC/DSSSB/22/ 1435-36 Dated: 20/7/22

ORDER

This order shall dispose of the representation dated 09.05.2022 filed by Sh. Manish Malik (Roll No. 412032100985), a candidate for the post of Special Educator (Primary) under Post Code-32/21 in MCD in compliance of the directions of Hon'ble Central Administrative Tribunal order dated 17.06.2022 in OA No. 1648/2022, in the matter of Manish Malik V/s Govt. of NCT of Delhi and Ors.

2. The Hon'ble Tribunal while disposing the Original Application No. 1648/2022 has directed to the respondents to decide the pending representation dated 09.05.2022 of the applicant within a period of six weeks from the receipt of a copy of the said order. Copy of the representation is found annexed with O.A. as Annexure A-1. The applicant vide his representation dated 09.05.2022 has stated as under:-

"I had applied for the issue of State OBC Certificate West Delhi in year 2014 dated 30.5.2014 along with my father (Father's Certificate No. : OBC/03/31/36781/2/6/2014/90508931142645.

We both applied for the State OBC Certificate, my father received state OBC Certificate but got Central OBC Certificate by mistake.

So, I assumed that the certificate issued to me is also of State OBC as I was not aware of the difference between Central & State OBC certificate.

Now through this Notice "Notice No. 1376 "for the Post Code 32/21 dated 05.01.2022. I came to know that the State & Central has different OBC certificates.

I am and I was a responsible OBC citizen of West Delhi since long back from 2014, my & my father's State OBC Certificate attached with this application proved the same.

Now, I got my state OBC Certificate on "14.01.2022" Certificate No. 90500000825639.

I would be very grateful to your authorities if you consider my delima and accept my honest application for the same."

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3. That in compliance of order of Hon'ble Tribunal dated 17.06.2022 in OA No 1648/2022 the representation/case of applicant Sh. Manish Malik (Roll No. 412032100985) under the post code 32/21 has been examined and following is stated in this regard:

4. As per requisition received from the Municipal Corporation of Delhi, the DSSSB advertised the vacancy vide its advertisement no. 01/2021 dated 04/03/2021. The detail of the vacancies as per Advertisement No.01/2021 was as under:-

Post Code & Post Name	Vacancies	EWS	UR	OBC	SC	ST	PwD-OH	PwD-VH
32/21 Special Educator (Primary)	1126	54	487	328	164	93	23	22

5. The prescribed cutoff date for determining educational qualification, age, experience and other eligibility conditions against the post was to be determined as on the closing date of online submission of application for the post code 32/21, which was 14/04/2021.

6. That in clause 5 of the advertisement itself, it has been informed by the Board the nature of OBC Certificate which a candidate must possess to avail the benefit of reservation. It reads as under:-

5. RESERVATION BENEFITS:

- (i) Reservation benefits will be available to the EWS/SC/ST/OBC/PwD & other special category candidates in accordance with the instructions/orders/circulars issued from time to time by the Govt. of Delhi.
- (ii) Candidates who wish to be considered against reserved vacancies and/or to seek age relaxation, **must be in possession of relevant certificates (EWS/SC/ST/OBC/Non Creamy layer/PwD/Educational/Experience etc.) issued by the competent/notified authority (in prescribed format) on or before the cutoff date (closing date of advertisement)** otherwise their claim for any category will not be entertained and their applications will be considered against Un-reserved (UR) category vacancies, if eligible otherwise. The candidate has to select that particular category when applying online for the Post. No request for change of Category will be entertained at any later stage.
- (iii) Only OBC (Delhi) candidates notified by Govt. of NCT of Delhi vide letter/order No.F.19(10)/2001/S-III/Pt. File/2278-2285 dated 27/07/2007 and No.F.19(01)/2012/S.IV/1241-1258 dated 28/07/2016 will be given the benefit of reservation/age relaxation under OBC category. **OBC (Outside) candidates will be treated as Un-reserved candidate and they must apply under UR category.** The OBC candidates must be in possession of non-Creamy layer certificate, along with his/her caste certificate.
- (iv) **Only following two types of certificates will be accepted as valid certificates for grant of benefit of reservation to OBCs:-**



- (A) OBC certificate(Delhi) issued by the Revenue Department of GNCT of Delhi, on the basis of a old certificate issued to any member of individual's family from GNCT of Delhi.
- (B) OBC certificate issued by a competent authority outside Delhi to a person belonging to a community duly notified as OBC by GNCT of Delhi. This certificate should have mandatorily been issued on the basis of OBC certificate issued by Govt. of NCT of Delhi to a family member of the concerned person who had been residing in Delhi before 08/09/1993.

7. That the applicant applied for the said post and appeared in the written examination. His detail is as under:-

Name	D.O.B	Category	Roll No.	Marks obtained
Manish Malik	01/09/1999	OBC	412032100985	84.18

8. That the marks of 6653 candidates who appeared in the online written examination held on 17/10/2021 for the post code 32/21 were released and also 2288 candidates shortlisted for uploading e-dossier vide Notice No.1337 dated 05/01/2022. The e-dossier link was active from 13/01/2022 to 27/01/2022 for uploading all documents pertaining to eligibility criteria and essential qualification as per RRs for the post as on the date of closing of application, which was 14/04/2021.

9. That during scrutiny of the e-dossier of the applicant it was found that the applicant Sh. Manish Malik (Roll No. 412032100985) has uploaded OBC certificate No. OBC/03/31/36780/2/6/14/90508931142644 dated 08/07/2014 issued by Govt. of Delhi. On examination of said OBC certificate it reveals that the same was issued by the Tehsildar (Punjabi Bagh) and the applicant Sh. Manish Malik is declared as Backward Class under Govt. of India.

10. That the OBC certificate No. OBC/03/31/36780/2/6/14/90508931142644 dated 08/07/2014 was obtained by the applicant Manish Malik and the said OBC certificate was valid on the cut-off date of submission of application, i.e. 14/04/2021 and also till date.

11. That in OBC Certificate dated 08/07/2014 of the applicant it is clearly mentioned that:

"Belong to JAT which is recognized as a backward class under the Government of India, Ministry of Welfare Resolution No.12011/7/95-BCC, dated the 24th May, 1995 published in Gazette of India, Extraordinary Part I Section I, No.88 dated 25th May 1995 and Resolution No.12011/68/68-BCC dated 27/10/99 publish in Gazette of India Extraordinary Part I Section I, No.241 dated 27/10/99 and Resolution No.12011/36/99-BCC, dated the 4/4/2000 published in Gazette of India, Extraordinary Part I, Section I, No.71 dated 4/4/2000 and Resolution No.12011/1/2001-BCC, dated 9/6/2003 published in Gazette of India, Extraordinary Part I, Section I, No.151 dated 9/6/2003 and Resolution



No.20012/129/2009-BC-II dated 4/3/2014 published in Gazette of India, Extraordinary Part I, Section I, No.63 dated 04/03/2014."

Further, the Heading of said certificate dated 08.07.2014 clearly shows that the said certificate is for appointment to the Posts Reserved Under the Government of India. The Heading is reproduced below:

"Other Back ward Classes Certificate for Appointment to the Posts Reserved Under the Government of India"

12. Sh. Manish Malik also uploaded OBC certificate vide No. 90500000825639 dated 14/01/2022, which is an OBC (Delhi) Certificate, but this Certificate bearing No. 90500000825639, was applied after more than 08 months of cut-off date and issued after 09 months of cut-off date i.e. 14.04.2021.

13. That the candidate has been directed through 1st recall vide notice No.1376 dated 27/04/2022 & 2nd recall vide Notice No.1385 dated 26/05/2022 to upload OBC (Delhi) certificate **issued prior to cut-off date, i.e. 14/04/2021**, but he failed to do so.

14. That Sh. Manish Malik, candidate has referred the order/judgment dated 24/02/2016 of Hon'ble Supreme Court in CIVIL APPEAL NO.1691 of 2016 titled as Ram Kumar Gijroya Vs DSSSB & Another in his O.A. No. 1648/2022.

15. In this regard it is submitted that from the said judgment of Ram Kumar Gijroya, it is clear that Sh. Ram Kumar Gijroya (the petitioner of Sh. Ram Kumar Gijroya case), had applied for the OBC certificate before the cut-off date, but obtained the same after the cut-off date.

Further, as per Para 8 of Ram Kumar Gijroya case, the requirement of submitting the OBC certificate before the cut-off date of the application was introduced by the respondent-DSSSB only while declaring the result on 15.12.2008. Whereas in the present case of Sh. Manish Malik under Post Code 32/21, the specific criteria was duly mentioned in the Advertisement itself that reserved categories candidates must possess the caste certificate before the cut-off date. The DSSSB has clearly notified the following vide Para 5 (II) of Advertisement No. 01/21:

*"Candidates who wish to be considered against reserved vacancies and/or to seek age relaxation, **must be in possession of relevant certificates (EWS/SC/ST/OBC/Non Creamy layer/PwD/Educational/ Experience etc.) issued by the competent/notified authority (in prescribed format) on or before the cutoff date (closing date of advertisement)** otherwise their claim for any category will not be entertained and their applications will be considered against Un-reserved (UR) category vacancies, if eligible otherwise. The candidate has to select that particular category when applying online for the Post. No request for change of Category will be entertained at any later stage."*



On this Ground also the case of Ram Kumar Gijroya is not similar to the case of Sh. Manish Malik, applicant in O.A. and the judgment of Ram Kumar Gijroya case is not applicable in the case of Sh. Manish Malik.

16. In present case of the applicant Manish Malik applied and obtained his OBC (Delhi) certificate vide No. 90500000825639 dated 14/01/2022 after the 09 months of cut-off date, therefore, the case of Sh. Manish Malik is different from the case of Ram Kumar Gijroya case. Therefore, the applicant was not eligible for applying under OBC (Delhi) category on the cut-off date i.e. 14.04.2021.

17. In view of above, the case of Sh. Manish Malik is not similarly placed with Sh. Ram Kumar Gijroya. Therefore, the judgment dated 24.02.2016 of Hon'ble Supreme Court of India in the matter of Ram Kumar Gijroya, is not applicable in the case of Sh. Manish Malik.

18. In this regard it is worthwhile to state that the applicant did not possess the OBC certificate prior to the cut-off date and the issue regarding sanctity of cut-off date is no more res integra. The Hon'ble Supreme Court in Civil Appeal No. 6116/2013 titled Rakesh Kumar Sharma Vs. GNCTD & Ors. had observed the following and dismissed the appeal of petitioner who did not have educational qualification on the cut-off date:

"16. In the instant case, the appellant did not possess the requisite qualification on the last date of submission of the application though he applied representing that he possessed the same. The letter of offer of appointment was issued to him which was provisional and conditional subject to the verification of educational qualification, i.e., eligibility, character verification etc. Clause 11 of the letter of offer of appointment dated 23.2.2009 made it clear that in case character is not certified or he did not possess the qualification, the services will be terminated. The legal proposition that emerges from the settled position of law as enumerated above is that the result of the examination does not relate back to the date of examination. A person would possess qualification only on the date of declaration of the result. Thus, in view of the above, no exception can be taken to the judgment of the High Court.

17. It also needs to be noted that like the present appellant there could be large number of candidates who were not eligible as per the requirement of rules/advertisement since they did not possess the required eligibility on the last date of submission of the application forms. Granting any benefit to the appellant would be violative of the doctrine of equality, a backbone of the fundamental rights under our Constitution. A large number of such candidates may not have applied considering themselves to be ineligible adhering to the statutory rules and the terms of the advertisement."

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19. Since the candidate was not having OBC (Delhi) certificate as on cut-off date i.e. 14/04/2021 in accordance with clause 5 titled as "RESERVATION BENEFIT" of advertisement no.01/2021 dated 04/03/2021, his claim for OBC (Delhi) category has not been considered. The candidature of Sh. Manish Malik was considered under Unreserved (UR) category vide Result Notice No. 1401 dated 01.07.2022. Last selected UR category candidate obtained 107.12 marks and last selected OBC (Delhi) candidate obtained 84.44 marks, vide the said Result Notice No. 1401 dated 01.07.2022.

20. That since the candidate was not having OBC (Delhi) certificate issued by authority as was required in the said advertisement at clause 5(ii), upto cutoff date (closing date of advertisement), i.e. 14/04/2021 for the post code 32/21, the candidate was considered as UR candidate in accordance with policy which is very well spelt out in the said advertisement notice.

21. That on the basis of OBC (Delhi) certificate obtained by the candidate on 14/01/2022 (obtained after lapse of 09 months of cutoff date of post code 32/21), the candidate is seeking reservation in OBC(D) category on the basis of caste certificate which was neither in his possession nor applied by him upto cutoff date of post code 32/21, i.e. 14/04/2021.

22. That the applicant as an afterthought obtained OBC (Delhi) certificate and that too after lapse of 09 months after cut-off date of post code 32/21, i.e. 14/04/2021.

23. That if such relaxation were to be made, it would lead to an unending process, leading to confusion and chaos and delay in the declaration of the results. It would also not be fair to other similarly placed candidates who may have applied as General Category candidates because they did not possess the caste certificate at the time of making the application.

24. Keeping in view the facts explained above, the Board has rightly denied the benefit of reservation to the candidate namely Sh. Manish Malik (Roll No. 412032100985) in post code 32/21 Special Educator (Primary) under OBC Category on account of failure on his part to submit OBC (Delhi) Certificate as per requirement of Clause 5(ii) of Advertisement No. 01/2021 dated 04/03/2021. Since, candidate does not have requisite OBC (Delhi) Certificate as on cutoff date, i.e., 14/04/2021, hence his request cannot be acceded to as it is against the laid down policy of the Board.

25. In view of above, the candidature of applicant in O.A. namely Sh. Manish Malik (Roll No. 412032100985) cannot be considered for the Post of Special Educator (Primary) in OBC(Delhi) category under Post Code 32/21.

26. This issues with the approval of Competent Authority and in compliance of the directions of Hon'ble Central Administrative Tribunal vide order dated 17.06.2022 in O.A. No. 1648/2022.



27. Let this order be served upon Sh. **Manish Malik** (Roll No. 412032100985), a candidate for the post of Special Educator (Primary) under Post Code 32/21.


Dy. Secretary, DSSSB

Sh. **Manish Malik**
S/o Sh. Sh. Tej Ram alias Tej Ram Singh,
A-19, Yadav Park Nangloi, Delhi-110041.

No.:- F.No. (8484)/LC/DSSSB/22/

Dated:

Copy to System Analyst, DSSSB with the request to upload the order on the website of the Board.


Dy. Secretary, DSSSB