



2025:DHC:10271



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

% **Judgment reserved on: 13.11.2025**
Judgment pronounced on: 21.11.2025

+ **W.P.(C) 12325/2018 & CM APPL. 47787/2018**

ROHIT KHATRIPetitioner

Through: Mr. Anil Mittal & Mr. Shaurya
Mittal, Advs.

versus

FOOD CORPORATION OF INDIA & ORSRespondents

Through: Mr. Manoj & Ms. Aparna
Sinha, Advs. for R1.

Ms. Amrita Prakash, CGSC
with Mr. Vishal Ashwani
Mehta, Adv. for UOI.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

J U D G M E N T

1. This petition was filed seeking quashing of orders dated 21.03.2018, 11.07.2018 and 05.11.2018, terminating the services of the petitioner, dismissing the appeal and review respectively.

2. The brief facts are that Food Corporation of India (for short 'FCI') on 31.07.2010 issued advertisement for recruitment on various posts, including the post of Assistant Grade III (Accounts) (for short 'AG-III'). The petitioner applied for the post of AG-III in the category of Other Backward Classes (OBC) and on being successful in written examination and interview, petitioner was offered appointment by letter dated 03.03.2011. On acceptance of offer of the appointment, the caste certificate was produced by the petitioner and appointment



letter dated 16.04.2011 was issued. The petitioner was posted at Faridkot, Punjab. On 27.02.2012 the Tehsildar, Narela, Delhi verified to FCI that OBC certificate produced by the petitioner was issued by their office. On completion of probation the petitioner was confirmed on 06.11.2012.

2.1 On 14.07.2014, show cause notice (for short 'SCN') was issued to show cause why the services should not be terminated as the petitioner was not OBC as per the Central List. The SCN was responded to on 19.07.2014. The service of the petitioner was terminated vide order dated 22.03.2018. The termination order was challenged by filing a writ petition but the petitioner vide order dated 04.04.2018 was relegated to remedy of appeal. On 11.07.2018, the appeal filed by the petitioner was dismissed and the review was dismissed on 05.11.2018, hence, the present petition.

3. Learned counsel for the petitioner contends that the advertisement stipulated no condition that for availing OBC reservation the community of candidate should be included in the Central List of OBC. It is argued that termination of petitioner for giving false information is stigmatic.

3.1. The submission is that the petitioner served the FCI for more than six years, OBC certificate produced by petitioner was verified by Tehsildar at the instance of FCI and for no fault of the petitioner his services were terminated. Decision in the case of **Iqbal Khatri & Ors. v. Employees State Insurance Corp. & Ors. SLP(C) No.28269/2011** dated 07.10.2013 and decisions of this Court in the cases of **The Director General Employees State Insurance**



Corporation v. Vivek Rana and Ors. MANU/DE/4317/2015 and **Union of India & Ors. v. Jagdeep 2025 SCC OnLine Del 13681** are relied upon to submit that petitioner should be ordered to continue in service even if the certificate is held to be invalid.

3.2 The contention is that when in 2013 the petitioner requested transfer from Punjab to Delhi at that time FCI certified that no vigilance case was pending; to similar effect was the report of the vigilance in February, 2015 when the petitioner was considered for promotion. The argument is that the FCI, by giving two vigilance clearances during the pendency of the SCN dated 14.07.2014, had dropped the termination proceedings.

3.3 Reliance is placed upon Regulation 7 of Food Corporation of India (Staff) Regulations, 1971 (for short '1971 Regulations') to contend that there is a power with the FCI to relax the conditions for appointment and it should have been exercised in the present case. Reliance is placed upon the decisions of the Supreme Court in the case of **Ashok Kumar Uppal & Ors v. State of J and K & Ors. AIR 1998 SC 2812** and **Sandeep Kumar Sharma v. State of Punjab & Ors. (1997) 10 SCC 298** to contend that power of relaxation should be exercised to remove the difficulties.

4. As per contra, the appointment of the petitioner was void ab-initio being ineligible to apply for the post of AG-III in the category of OBC. The submission is that there is a clear cut distinction of area of operation for the lists of OBC communities prepared by the Central Government and State Governments. The argument is that for employment on a post of Central Government in the reserved category



for OBC, the community of the candidate should be in the list of OBC prepared by the Central Government. It is argued that the petitioner was well aware that the OBC certificate as per the Central List was required for applying for the job and this is evident from the declaration filed by the petitioner.

4.1 The contention is that having continued on the post for six years does not create equity in favour of the petitioner. On the recommendation of the HLC the OBC certificate of petitioner was invalidated for purpose of getting appointment in FCI thereby making the petitioner ineligible to apply in pursuance to advertisement, for AG-III in the OBC category. To fortify the submission, reliance is placed upon the decision of Division Bench of this Court in the case of **Pankaj v. Union of India (2005) ILR 2 Delhi 341**.

4.2 It is submitted that the proceedings against the petitioner for termination of the service were initiated in 2014 by issuance of the SCN and after considering the response filed the services were terminated vide order dated 20.03.2018. The submission is that the termination proceedings were not dropped and the vigilance clearance given at the time of transfer and promotion of the petitioner was only to the extent that there was no vigilance inquiry pending.

4.3 The contention that the FCI had the power to relax the eligibility criteria is refuted by stating that the nature of the reserved vacancies could not have been changed under Regulation 7 of the 1971 Regulations.

5. Heard the learned counsel for the parties at length, no contention other than noted above was pressed.



6. Undisputed facts are:- (i) that for applying for the post with FCI under the OBC category the petitioner produced OBC certificate of the State List; (ii) the community of the petitioner was not included in the Central List of OBC; (iii) on the recommendation of the HLC the OBC certificate produced by the petitioner on basis of State List of OBC was invalidated for the purpose of seeking employment with FCI, as it was revealed that the community of petitioner was not included in the Central List of OBC.

7. The contention that it was not specified in the advertisement that the candidate should be OBC as per the list issued by the Central Government lacks merit. The advertisement dated 31.07.2010, invited applications for five posts for AG-III in FCI, reserved for OBC. The advertisement stated that before applying for posts the candidates should satisfy themselves that they fulfill the eligibility. It was further specified that in case the information furnished by the candidates is found to be defective, the candidature shall be summarily rejected as and when it comes to the notice of the management. It is not contested by the petitioner that for the post reserved for OBC in the Central Government, the OBC list issued by the Central Government shall apply and not the list issued by the State Government. The petitioner was well aware that the OBC list of Central Government would be applicable for claiming OBC reservation for the post of AG-III and this is evident from the declaration filed by the petitioner. The declaration is reproduced below:-

“I Rohit Khatri son/~~daughter~~ of Shri Devi Singh resident of village/town/city Narela district North-West state Delhi



hereby declare that I belong to the OBC (Jaat) community which is recognized as a backward class by the Government of India for the purposes of reservation in services as per orders contained in Department of Personnel and Training Office Memorandum No. 36012/22/1993-Estt.(SCT) dated 8-9-1993. It is also declared that I do not belong to persons/sections (Creamy Layer) mentioned in column 3 of the Schedule to the above referred Office Memorandum dated 8-9-1993.

-Sd-

(SIGNATURE OF THE CANDIDATE)

FULL NAME. ROHIT KHATRI

ADDRESS 1964, Railway Road
Narela Delhi 110040”

8. The argument that FCI got the OBC certificate verified and the termination after more than six years of service for no fault of the petitioner is bad, does not enhance the case of the petitioner. The termination was for the reason that the petitioner on basis of certificate of OBC issued as per State List was not eligible to apply for post of AG-III in FCI, reserved for OBC.

9. The two issues i.e. whether the candidate on the basis of the community of the candidate finding mention only in the State List of OBC can claim reservation of OBC in the recruitment for Central Government post and secondly, whether the principle of estoppels against termination can be invoked by the candidate on the ground of having served on the post for a long period of time, were considered by the Division Bench of this court in **Pankaj v. Union of India** (supra). It was held that list prepared by the Govt. of NCT of Delhi of OBC category shall not be relevant for appointment to the Central



Government post. Candidate belonging to OBC community only as per the State List shall be ineligible for the Central Government post and that this illegality vitiates the appointment, the principle of estoppel shall not apply to the termination of the services. The relevant portion of judgement is quoted below:-

- “9. The first question which arises for consideration is whether the petitioner belongs to OBC category and was therefore entitled to appointment as an LDC in terms of the advertisement published in the Employment News for 1-7th November, 2003. It is admitted by learned counsel for the petitioner that Jat community is not included in the Central List (Mandal List) of OBCs. The said list has been prepared by the Central Government for purpose of appointment in reserved category posts meant for OBC. Appointments to reserved posts for OBCs in the Central Government can only be given to candidates belonging to communities mentioned in the Central List (Mandal List). Candidates belonging to communities included in State Government lists are not eligible.
10. The appointment in the present case, as mentioned in the advertisement, was to be made by the HQ Western Air Command (Unit) Air Force which is a part of the Central Government. The Government of NCT of Delhi may have prepared its own list of communities falling in OBC category but that list is not relevant and material for appointment to a Central Government post for which a separate Central List (Mandal List) has been prepared. It is, Therefore, apparent that the petitioner was not an OBC candidate and Therefore not eligible for appointment to the post of LDC reserved for OBCs by the Central Government.



11. We also do not find merit in the contention that on the basis of principle of estoppel, the respondent could not have terminated the service of the petitioner vide letter dated 15th December, 2004. In support of his contention the petitioner had relied upon the judgment of the Supreme Court in the case of Sanatan Gauda versus Berhampur University and others reported at MANU/SC/0199/1990: [1990]2SCR273. The said judgment in our opinion is not applicable to the facts of the present case. In the said case, a student of a Law College had pursued his studies for two years and thereafter he was not being permitted and allowed to give his examination for Final year. In these circumstances, the Supreme Court applied the principle of estoppel and held that the petitioner therein was entitled to succeed. It may also be mentioned here that the Supreme Court has examined various rules and satisfied itself that the petitioner therein fulfilled the minimum qualification prescribed for admission to the law course.
12. It is a settled law that there cannot be an estoppel against law. A wrong appointment without proper verification cannot give any right to the petitioner who is a non-OBC to occupy a post reserved for an OBC category. An error or mistake of the nature, subject matter of the present petition, cannot be overlooked by applying principle of estoppel. Appointment of a non-OBC candidate to a post reserved for OBCs is not an irregularity but illegality which vitiates the appointment. The appointment itself is contrary to law and illegal. Principle of estoppel is therefore not applicable. It may also be relevant to state here that the appointment letter dated 12th December, 2003 gives right to the respondent to terminate the appointment of the petitioner by giving one month's notice.



Therefore, the petitioner was aware that his appointment may be terminated.”

10. The Supreme Court in the cases of **Bank of India and Ors. v. Avinash D. Mandivikar and Ors. (2005) 7 SCC 690** after considering decision in the case of **R. Vishwanatha Pillai v. State of Kerala and Ors. AIR 2004 SC 1469** held that the basis of appointment cease to exist after invalidation of certificate produced for claiming reservation and then the post kept for the reserved candidate cannot be claimed by such a candidate. The contention that the employee served for three decades and is about to retire in three years and the equity is in favour of the employee was rejected. It was held:-

“6. Respondent no.1-employee obtained appointment in the service on the basis that he belonged to Scheduled Tribe. When the clear finding of the Scrutiny Committee is that he did not belong to Scheduled Tribe, the very foundation of his appointment collapses and his appointment is no appointment in the eyes of law. There is absolutely no justification for his claim in respect of post he usurped, as the same was meant for reserved candidate.”

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Looked from any angle the High Court’s judgment holding that the respondent no.1-employee was to be reinstated in the same post as originally held is clearly untenable. The order of termination does not suffer from any infirmity and the High Court should not have interfered with it. By giving protection for even a limited period, the result would be that a person who has a legitimate claim shall be deprived the benefits.



On the other hand, a person who has obtained it by illegitimate means would continue to enjoy it notwithstanding the clear finding that he does not even have a shadow of right even to be considered for appointment.”

11. The submission that the termination of petitioner for furnishing false information is stigmatic, is factually wrong. The OBC certificate produced by petitioner was invalidated by HLC as the community of the petitioner did not find mention in the OBC list of the Central Government, thereby making the petitioner ineligible to apply for the post of AG-III in FCI by claiming reservation for OBC post. The termination for ineligibility attaches no stigma.

12. Reliance of the learned counsel for the petitioner on the decision of the Supreme Court in the case of **Iqbal Khatri & Ors. v. Employees State Insurance Corp. & Ors.** and on the decisions of this Court in **The Director General Employees State Insurance Corporation v. Vivek Rana and Ors.** (supra) and **Union of India & Ors. v. Jagdeep** (supra) is of no avail. The orders were passed in the peculiar facts and circumstances of those cases and were not to be treated as precedents. It would also be relevant to mention that in both the decisions of this court relied upon by counsel for the petitioner the division bench judgement of **Pankaj v. Union of India** (supra) was not considered.

13. The argument that by the issuance of vigilance clearance by the FCI during the pendency of the termination proceedings tantamount to dropping of proceedings is ill-founded. There was no vigilance inquiry



marked against the petitioner by issuance of the SCN dated 14.07.2014. At the time of transfer and promotion, it was certified that no vigilance inquiry was pending against the petitioner. The communications by the FCI were not to the effect that there was no proceeding pending against the petitioner.

14. Regulation 7 of 1971 Regulations deals with mode of appointment. Sub clause 2 of Regulation 7 stipulates that a person satisfying the qualification and the age limits specified in column 7 and 8 of tables in Appendix I shall be appointed. The proviso to sub clause 2 provides three eventualities where the power of relaxation can be exercised by the authority with regard to the post indicated in column 2 of the table set out in the Appendix II, which only talks about relaxation of age and qualification. Firstly, the age limit specified can be relaxed in case of a person with exceptional qualifications or experience. Secondly, for a person with outstanding service record the qualification can be relaxed. If necessary or expedient to do so the Board may by order relax any of the provisions in the recruitment rules contained in Appendix I. The provision of recruitment rule in Appendix I does not fix the percentage of the posts to be reserved for OBC. The clause 7 of 1971 Regulations does not empower the FCI to change the nature of the reserved post to general category.

15. The petitioner was ineligible for applying for the post of AG-III in FCI reserved for OBC, by producing OBC certificate issued on the basis of State list of OBC. Petitioner filed declaration that he belongs to OBC as declared by the Central Government. After invalidation of



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the OBC certificate by HLC and the petitioner becoming ineligible to apply for reserved post had no right to continue on the post reserved for OBC. No case is made out for interference in impugned orders.

16. The writ petition is dismissed. All pending applications are also disposed of.

AVNEESH JHINGAN, J

NOVEMBER 21, 2025
Ch

Reportable:- **Yes**