

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH , ALLAHABAD.

Allahabad this the 18th day of March, 2004.

Original Application No. 750 of 2002.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.
Hon'ble Mr. D.R. Tiwari, Member- A.

Rishi Kumar Jaiswal a/a 21 years, S/o Sri R.P. Jaiswal
R/o Mohalla- Mundera Bazar, Post Office-Chauri Chaura,
Distt. Gorakhpur.

.....Applicant

Counsel for the applicant :- Sri R.S. Prasad

V E R S U S

1. Union of India through the Secretary,
M/o Railways, New Delhi.
2. Railway Board, New Delhi through its Director,
Establishment (Welfare).
3. General Manager (Karmik), Chief Personnel Officer,
N.E. Rly., Gorakhpur.
4. Principal, NE Rly., Senior Secondary School,
Gorakhpur.

.....Respondents

Counsel for the respondents :- Sri D.S. Shukla

O R D E R

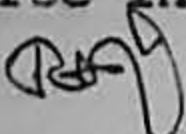
By Hon'ble Mr. Justice S.R. Singh, VC.

The applicant, who belonged to Kalwar Community,
applied for and ^{was} selected for admission to a two-years
vocational course for the session 1997-1999 in "Railway
Commercial" as a result of entrance test held on 16.02.1997
followed by interview held between 10.09.1997 to 13.09.1997 .
The applicant was admittedly selected and admitted to the
vocational course ^{& as a candidate belonging to} the general category ~~candidates~~ on the
basis of the result of entrance examination which consisted
of a written test of objective type multiple choice questions

R.S.

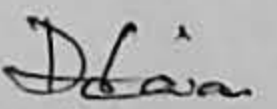
and general knowledge, general English, general awareness, general intelligence and aptitude. As provided in the notification, the students ^{-yug} qualified in the entrance examination were to be offered admission to the vocational course on the basis of marks provided ^{that had} they passed the 10th class Board Examination with atleast 50% marks in aggregate (40% in the case of SC/ST and OBC) and subject ~~to~~ ^{to} medical examination. The Kalwar Community to which the applicant belongs was included in the list of O.B.C for Central Government w.e.f 04.04.2000. The final result of the entrance examination was declared on 31.05.2000. The examination no doubt was conducted in March, 2000 but the result ^{having} ~~have~~ been declared after the inclusion of Kalwar community in the list of O.B.C, the applicant became entitled to be declared successful in case he had secured the required aggregate of marks prescribed for O.B.C candidates. As per the notification annexed to the counter affidavit students who passed ⁱⁿ two-years vocational (plus two) Course in "Railway Commercial" by securing at least 55% marks in aggregate (45% in the case of SC/ST and O.B.C candidates) will be offered appointment as Commercial Clerks/Ticket Collectors ^{on} the Railways in the pay scale of Rs.975-1540/ Rs. 950-1500/- plus other admissible allowances like H.R.A, CCA, DA etc. ^{the} Only controversy that requires for determination is whether the applicant who had initially been admitted to two-year vocational (plus two) Course in "Railway Commercial" as a general candidate would be entitled to be offered appointment as Commercial Clerk/ Ticket Collector on the Railways, in case he had obtained prescribed percentage of marks for O.B.C candidates.

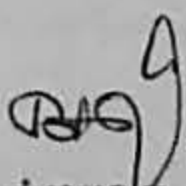
2. We are of the considered view that since the Kalwar Community had been included in the list of O.B.C before the declaration of the result of two years Vocational (plus two) Course in the "Railway Commercial", the applicant



shall be entitled to be offered appointment as Commercial Clerk/Ticket Collector, in case he had secured 45% marks in aggregate in two years Vocational (plus two) Course as well as in the subject of "Railway Commercial". The applicant had secured 51% marks in aggregate in two years Vocational (plus two) Course and 49% in "Railway Commercial" and he had already informed the ^{competent} authority prior to the ^{i.e.} declaration of the result on 16.05.2000 that his community has since been included in the O.B.C. It is true that the applicant was initially admitted to two years Vocational (plus two) Course in "Railway Commercial as a general candidate but he cannot be deprived of the right which ~~was~~ accrued on account of inclusion of Kalwar community in the list of O.B.C for Central Government. Mere fact that cast certificate was filed on 20.07.2000 ^{would not be a valid ground} ~~will be enough~~ to dis-entitle him ^{to get} of the benefits that he was otherwise ^{being} entitled ^{to} on account of a member of O.B.C. It may be pertinent ^{to} stated that the averments made in para 4(xxii) of the O.A that similarly placed candidates of 1994-95 session had been given the benefit of O.B.C quota has not been denied in the CA.

3. Accordingly, the O.A succeeds and is allowed. The impugned order dated 28.01.2002 and 01.09.2000 contain in annexure-1 and annexure-2 are quashed. The respondents are directed to ^{offer} ~~give~~ appointment to the applicant as Commercial Clerk/Ticket Collector on the Railways on the basis of marks secured in two years Vocational (plus two) Course in "Railway Commercial" treating him a member of O.B.C community. The exercise shall be completed within three months from the date of communication of this order. No costs.


Member- A.


Vice-Chairman.

/Anand/