

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

(THIS THE 26ND DAY OF MAY 2009)

PRESENT

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J
HON'BLE MRS MANJULIKA GAUTAM, MEMBER - A

ORIGINAL APPLICATION NO. 698 OF 2003.
(Under Section 19, Administrative Tribunal Act, 1985)

Tat Prakash Chaudhary, son of Shri Ram Surat Chaudhary,
Resident of Village Mahadeva Buzurg, Post Gopalapur via
Anand Nagar, District Maharajganj.

.....Applicant

By Advocate: Shri Rakesh Verma/Shri B.N Mishra.

Versus.

1. Union of India through General Manager (Personal),
North Eastern Railway, Gorakhpur.
2. Deputy Chief Personal Officer, North Eastern Railway,
Gorakhpur.

.....Respondents

By Advocate: Shri D.S. Shukla.

ORDER

(Delivered By : JUSTICE A.K. YOG, MEMBER- JUDICIAL)

Shri Rakesh Verma, Advocate representing the
Applicant and Shri D.S. Shukla, Advocate representing the
Respondents is present.

2. Ordersheet shows that this O.A., case could not be
taken up for various reason/s (including inability of learned
counsel for the parties to appear) and about six years have

be

passed. Interestingly, when case was listed on 19.1.2009 and 15.5.2009 case could not be taken up because of illness slip of the learned counsel for the applicant. Learned counsel for the applicant is again reported ill today.

3. On the other hand one finds Misc. (Urgency) Application No.1928/09 filed by the applicant with the prayer to fix case 25.5.2009 in O.A. for hearing or any subsequent date.

4. Pendency of the O.A. is not in the interest of the applicant, inasmuch as he prays for being considered for selection/appointment on the basis of examination to be held in the year 2001 (i.e. about 7 years earlier in the past). It is expedient that O.A. is decided and applicant is saved of uncertainty.

5. Applicant seeks to challenge order dated 24.5.2002 (photocopy of order filed with the O.A.). The relief sought is to issue to quash said impugned order and issue a direction to the respondents to consider the applicant for 'absorption'.

6. For convenience, relevant extract of impugned order dated 24.5.2002 is reproduced below:-



".....On going through the representation dated 5.11.2001 of the applicant as well as the relevant records available with the Railway Administration, I find that Shri T.P. Chaudhary was selected for the Vocational Course through Railway Recruitment Board, Gorakhpur as a General candidate in the year 1993. Accordingly, he was admitted in the North Eastern Railway Senior Secondary School, Gorakhpur and passed the XIth standard examination in the year 1994. Due to his long absence and non-payment of fee, his name was struck off from the roll as a result of which he could not appear in the Intermediate Final examination of 1995. Shri Chaudhary, however, appeared as a Private candidate in the Intermediate examination (VCRC) of 1996, 1999 and 2000 but did not secure the requisite percentage of marks.

Again Shri Chaudhary appeared as a Private candidate in the Intermediate examination held during the year 2001 and secured 46.8% marks and thereafter submitted a representation that being a Other Backward Class candidate and securing 46.8% marks in the Intermediate examination, he may be accommodated in the Railway Service.

It is clarified that the pass marks for Intermediate examination as Vocational Course are 55% for General Candidates and 45% for SC/ST & OBC candidates.

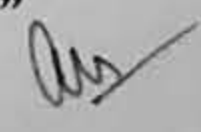
As a Railway Board's letter dated 27.07.1999, in case a student had failed or has been placed in compartmental examination or did not obtain the requisite percentage of marks in the first attempt, he may be appointed only if he secure the requisite percentage of marks after clearing the compartment or improving the position in the main examination conducted in the next academic year and not later.

As regards the claim of the applicant to treat him as OBC candidate, it is clarified that he was selected against general quote through Railway Recruitment Board, Gorakhpur in the year 1993. But the benefits to Other Backward Class candidates in Direct Recruitment was given to the Railway w.e.f. 13.01.1994, which is after he was selected against General Quote. However, the candidate submitted the OBC certificate only in the year 2001, after a long gap of around Nine years.

As far as the absorption of Shri Anil Kumar Chaurasia is concerned, it is clarified that Shri Chaurasia was selected for Vocational Course through RRB/Gorakhpur in the year 1992-93 and he passed the XIIth standard examination in the year 1997. It is also clarified that Shri Chaurasia was absorbed in Railway Service in the year 1997-98 before the enforcement of Railway Board's letter dated 27.07.1999.

From the facts stated above, it is clarified that the applicant was selected as a General candidate and did not secure the Railway Board prescribed 55% marks in the Intermediate Examination and also not completed the Intermediate Examination within the prescribed time limit, the claim of the applicant to accommodate him in Railway Service is not acceptable.

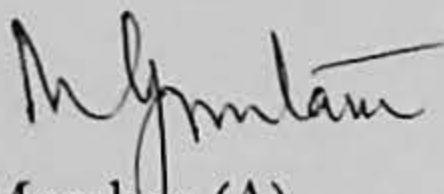
I, therefore, find no merit in the representation of Shri Tat Prakash Chaudhary. This disposed of his representation dated 05.11.2001....."

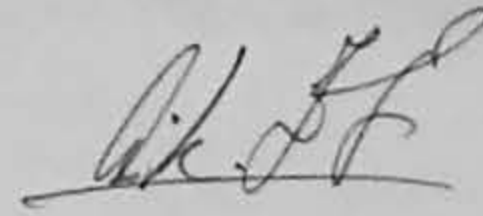


7. We have perused the pleadings contained in the O.A. There is no dispute that the Applicant deserves to change his status (viz, instead of being considered as general candidate against unreserved quota) he prays for being considered as 'OBC' with respect to the examination held in 2001.

8. We have no doubt that such a request cannot be allowed in retrospection. No candidate can be permitted to change 'status' subsequently as it shall open floodgate of litigation and lead to uncertainty as well as giving rise to a chaotic situation. Request of the Applicant is misconceived.

9. This O.A. has no merit and it is accordingly dismissed.


Member (A)


Member (J)

Manish/-