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Central Administrative Tribunal, Principal Bench

Original Application No.3233 of 2001

New Delhi, this the 11th day of December, 2002

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. M.P. Singh, Member (A)

1. Shri Harish Sahai,
Chief Enquiry & Reservation Supervisor
Reservation Office/Complex,
IRCA Building, New Delhi
2. Shri V.V. Sharma,
S/o Shri G.R. Sharma,
Chief Enquiry & Reservation Supervisor
Reservation Office/Complex,
IRCA Building, New Delhi
3. Smt. Indra Diwan,
Enquiry & Reservation Supervisor
Reservation Office/Complex,
IRCA Building, New Delhi
4. Ms. Kaushalya Rani,
W/o Shri P.C. Handa,
Enquiry & Reservation Supervisor
Reservation Office/Complex,
IRCA Building, New Delhi
5. Shri Vijay Shankar Pandey,
S/o Shri R.S. Pandey,
Enquiry & Reservation Grade-II,
Reservation Office/Complex,
IRCA Building, New Delhi

....Applicants

(By Advocate: Shri K.K. Patel)

Versus

1. Union of India,
through the General Manager,
Northern Railway,
Head Quarter Office, Baroda House,
New Delhi.
2. Chief Personnel Officer,
Northern Railway,
Head Quarter Office, Baroda House,
New Delhi.
3. Ms. Narinder Kumari,
Chief Enquiry & Reservation Supervisor
Reservation Office/Complex,
IRCA Building, New Delhi
4. Laxmibai Dass
Chief Enquiry & Reservation Supervisor
Reservation Office/Complex,
IRCA Building, New Delhi

5. Dhani Ram
Chief Enquiry & Reservation Supervisor
Reservation Office/Complex,
IRCA Building, New Delhi
6. Kirori Ram,
Enquiry & Reservation Supervisor
Reservation Office/Complex,
IRCA Building, New Delhi
7. Ms. Geeta Kumari
Enquiry & Reservation Supervisor
Reservation Office/Complex,
IRCA Building, New Delhi
8. Ms. Uma Tomar
Enquiry & Reservation Supervisor
Reservation Office/Complex,
IRCA Building, New Delhi

.... Respondents

(By Advocate: Shri R.L. Dhawan)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

Applicants are Chief Enquiry & Reservation Supervisor (CE&RS). By virtue of the present application, they seek a direction to the respondents to revise/recast the seniority list of CE&RS on the principles laid by the Supreme Court in the case of Ajit Singh (II) vs. State reported as 1999 (7) SCC 209.

2. In the reply, reliance strongly has been placed on the 85th amendment to the Constitution by virtue of which Article 16 (4A) has been added in the Constitution.

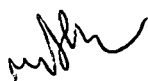
3. During the course of submissions, it was not disputed that the validity of 85th amendment to the Constitution had been challenged and therein the Supreme Court on 11.11.2002 had passed the following order:


"These Writ petitions involve the constitutionality of Article 16 (4A). The Court by an interim order has directed not to revert any of the petitioners from their existing placement nor affect their



standing in the seniority list, but at the same time the provisions of Article 16(4A) can be implemented and by virtue of that provision if some of the reserve category candidates are entitled to promotion they shall be promoted. The obvious idea being the court should not stay the operation of a constitutional provision. The state finds difficulty in implementing the order on the ground that there does not exist sufficient vacancy of posts in a particular cadre to give effect to the provisions contained in Article 16(4A). This being an interim arrangement we direct that they should apply to the number of vacancies available in a cadre to give effect to the promotional policy and undoubtedly such a promotion can be granted only when the state makes a provision for reservation in terms of Article 16(4A)...."

4. It is not in dispute, therefore, at either end and accordingly, we dispose of the present application with the direction that the respondents in accordance with the decision of Ajit Singh (II) (supra) as well as direction of the Supreme Court quoted above will go into the question and re-draw the seniority of the applicants in accordance with law, as referred to above.


(M.P. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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