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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

CP NO. 345/2003
OA NO. 1738/1994
MA NO. 123/2004
MA NO. 509/2004

This the 8th day of March, 2004

HON'BLE SH. KULDIP SINGH, MEMBER (J)
HON'BLE SH. S.A.SINGH, MEMBER (A)

1. Mohan Kumar Shingari
s/o Sh. Vishwa Mittar
r/o Lilla Kuteer Building,
Railway Road, Jalandhar.
2. Pawan Kumer s/o Sh. Madan Lal
r/o H.No.249, Gali No.1,
Guru Nanak Pura West,
Jalandhar.

(By Advocate: Sh. H.P.Chakravorty)

Versus

1. Mr. Mohd. Sirajudin,
General Manager (Personnel),
Rail Coach Factory, Kapurthala.
2. Mr. R.R.Bhandari,
Secretary,
Ministry of Railways,
Railway Board,
Rail Bhawan, New Delhi.

(By Advocate: Sh. E.X.Joseph alongwith
Sh. Rajender Khatter and
Sh. Satish Kumar)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Earlier applicants have filed an OA-1738/94. Applicant No.1 in the said OA belong to SC category and 4 other applicants were of unreserved category. They were aggrieved of non-appointment to the post of Jr. Chemical Metallurgical Assistants in the scale of Rs.1320-2040 (RPS) though they had appeared in the written test and qualified the same.

2. Notice was issued to the respondents but the OA was dismissed on the ground that there were no vacancies and as

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there was shrinkage in the job requirement, only 3 candidates were appointed. So the OA was dismissed. However, it was observed that if subsequently this panel is to be operated that shall be according to merit and case of the applicants should not go by default.

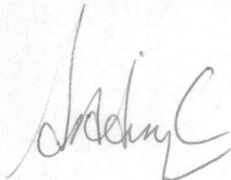
3. The grievance of the applicant is that after this respondents have appointed 2 persons at Sl. No.12 & 13, persons who belong to SC category. Applicant pleads that since the direction were given that panel is to be taken on merit alone and case of the applicant could not be allowed to go by default so it is applicants who could have been appointed. Respondents have committed contempt as they have not taken the applicants on merit alone.

4. Respondents in their reply pleaded that since there was a backlog of vacancies to be filled by backward classes SC and ST, whereas the petitioners belong to unreserved community on the other hand candidates at Sl. No.12 & 13 belong to reserved community so both of them form different classes who cannot be compared as equals. So equal treatment cannot be claimed by the unequals. It is only with a view to clear the backlog of reserved class vacancies the candidates appearing at Sl. No.12 & 13 in the said panel have been given appointment and thus there is no contempt of court committed by the respondents.

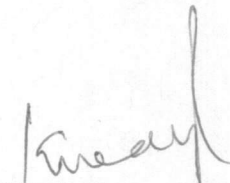
5. After hearing the parties we are also of the view that the words bearing "merit alone" in the directions given by the Tribunal does not take away the merits of SC candidates. If the vacancy as per roster point falls to be given to a SC

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candidate then merits of SC candidates is to be considered for affording them the vacancies and same has been done in this case. So we do not find any contempt has been committed by the respondents. However, applicants are at liberty to challenge the same by a separate order. CP stands disposed of.


(S.A. SINGH)
Member (A)

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(KULDIP SINGH)
Member (J)