

Central Administrative Tribunal:Principal Bench

....

D.A. No. 405/96

New Delhi, this the 5th day of June, 1996

Hon'ble Smt. Lakshmi Swaminathan, Member (J)  
Hon'ble Sh. R.K. Aahooja, Member (A)

Madhukar Asnani,  
c/o PB Section,  
(Room No. 717, Akbar Bhawan),  
Chankypuri, New Delhi.

(In person)

...Applicant

Versus

Union of India through the  
Secretary,  
Ministry of External Affairs,  
South Block, New Delhi.

By Shri N.S. Mehta, Advocate

...Respondent

ORDER (Oral)

By Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Heard the applicant who is present in person and  
Shri N.S. Mehta, learned counsel for the respondents.

2. The grievance of the applicant is that the respondents  
are not following the principles laid down by the Constitution  
Bench of Hon'ble Supreme Court in R.K. Sabharwal and Ors. Vs.  
State of Punjab & Ors. (JT 1995(2) SC 351) with regard to the  
reservation quota for SC/STs and hence he is not being considered  
for promotion to the post of Under Secretary as a general  
category candidate.

3. Shri N.S. Mehta, learned counsel for the respondents  
has submitted that in view of the fact that a review petition  
has been filed by the Ministry of Railways in a similar case  
(J.C. Mallick vs. Union of India & Ors reported in SLJ 1996(1)SC 116)  
which is still pending in the Supreme Court, the respondents had

..... 2p/....

CR

not issued any new instructions reflecting the judgement of the Supreme Court in Sabharwal's case (supra). He further submits that the matter is under consideration for finalization in consultation with the concerned Ministries and in the mean time the respondents had no alternative but to follow the existing DOP&T guidelines to work out the total vacancies of the reserved quota in the 40-Point roster. Shri Mehta has, however, fairly submitted that the 39 posts at present occupied by the reserved class of SC/ST officers in accordance with the existing DOP&T instructions are <sup>in p</sup> excess of 22½% reservation permissible for this category.

4. In the above circumstances, this O.A. is disposed of with the following directions:

The respondents are directed to follow the judgement of the Hon'ble Supreme Court in Sabharwal's case (supra) immediately and without any further delay and no posts in the general quota shall be filled up contrary thereto.

5. The O.A. is allowed. No order as to costs.

*R.K. Ahuja*  
(R.K. Ahuja)  
Member (A)

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

Na.