

CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH

OA.No.1802 of 2000

New Delhi, this 07th day of March 2001

(8)

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRI M.P.SINGH, MEMBER(A)

1. Vinod Kumar
S/o Shri Ram Swaroop Chawla
Parcel Supervisor
New Delhi Railway Station
Northern Railway
New Delhi
2. Adarsh Chander Bhalla
S/o Shri M.L. Bhalla
Parcel Supervisor
Northern Railway
New Delhi Railway Station
3. Bhusan Chander Sharma
S/o Shri H.C. Sharma
Parcel Supervisor
Northern Railway
New Delhi Railway Station
New Delhi
4. Awadh Kishore
S/o Shri Moti Prasad
Parcel Supervisor
Northern Railway
New Delhi Railway Station
New Delhi

... Applicants

(By Advocate:Shri S.K. Sawhney)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House
New Delhi
2. The Divisional Railway Manager
Northern Railway
Chelmsford Road
New Delhi
3. Senior Divisional Personnel Officer
Northern Railway
D.R.M. Office
Chelmsford Road
New Delhi

Ref:

4. Devinder Kumar
S/o Shri Chattar Mal
Parcel Supervisor
Northern Railway
Delhi

5. Balwan Singh
S/o Shri Mehar Singh
Parcel Supervisor
Northern Railway
Delhi

6. Jai Kumar
S/o Shri Bisheshwar
Parcel Supervisor
Northern Railway
Nizamuddin Railway Station
New Delhi

7. Hilarious Toppo
S/o Shri T. Toppo
Parcel Supervisor
Northern Railway
Muzaffarnagar

8. Balwant Singh
S/o Shri Jottan Ram
Parcel Supervisor
Northern Railway
Panipat

9. Nem Chand Verma
S/o Shri Dhanna Ram
Parcel Supervisor
Northern Railway
Delhi

10. Sugan Chand
S/o Shri K.R. Saqkar
Parcel Supervisor
Northern Railway
New Delhi

11. Sushil Kumar
S/o Shri Maha Dev
Parcel Supervisor
Northern Railway
Delhi

12. Amar Singh
S/o Shri Lalji Ram
Parcel Supervisor
Northern Railway
Delhi

13. Raj Kumar
S/o Shri Sugan Chand
Parcel Supervisor
Northern Railway
New Delhi

... Respondents

(By Advocate: Shri R.L. Dhawan)

ORDER(Oral)

By Shri Justice Ashok Agarwal

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Applicants are Parcel Supervisors Grade 5500-9000(RPS). They are aspirant for promotion to the post of Chief Parcel Supervisor Grade 6500-10500 (RPS). There are 9 vacancies to the post of Chief Parcel Supervisor. Applicants are all belonging to the general category. Applicants have annexed at Annexure-A2 seniority list of Parcel Supervisors. They have annexed seniority list of Chief Parcel Supervisors at Annexure-A3. The seniority list of Parcel Supervisors shows that there are 14 SC candidates and 2 ST candidates who have attained their respective seniority on the basis of their accelerated promotions. Seniority list of Chief Parcel Supervisors shows that there are 10 SCs and 6 STs in a total of 27 posts which is more than 50% of the posts. Hence there are no vacancies for SC and ST candidates. A written test for aforesaid promotions has already been held. Present petition is filed when viva-voce ^{is about} ~~was~~ to be held.

2. Pursuant to an interim order passed in the OA, aforesaid viva-voce has been stayed. A perusal of the seniority list of Parcel Supervisors shows that candidates belonging to SC and ST have been given their seniority on the basis of their accelerated promotions. ~~This~~ ^{is} not

W.J.

This is not
in dispute by and on behalf of the respondents.

In the case of Ajit Singh Januja & Ors. Vs.
State of Punjab & Ors. 1996(1) Vol.22 SCSLJ 439

it has inter alia been observed as under:

"We respectfully concur with the view in Union of India vs. Virpal Singh Chauhan (supra) that seniority between the reserved category candidates and general candidates in the promoted category shall continue to be governed by their panel position i.e. with reference to their inter se seniority in the lower grade. The rule of reservation gives accelerated promotion, but it does not give the accelerated 'consequential seniority'. If a Scheduled Caste/Scheduled Tribe candidate is promoted earlier because of the rule of reservation/roster and his senior belonging to the general category candidate is promoted later to that higher grade the general category candidate shall regain his seniority over such earlier promoted scheduled caste/tribe candidate. As already pointed out above that when a scheduled caste/tribe candidate is promoted earlier by applying the rule of reservation/roster against a post reserved for such scheduled caste/tribe candidate in this process he does not supersede his seniors belonging to the general category. In this process there was an occasion to examine the merit of such scheduled caste/tribe candidate vis-a-vis his seniors belonging to the general category. As such it will be only rational, just and proper to hold that when the general category candidate is promoted later from the lower grade to the higher grade, he will be considered senior to a candidate belonging to scheduled caste/tribe who had been given accelerated promotion against the post reserved for him. Whenever a question arises for filling up a post reserved for Scheduled Caste/tribe candidate in still higher grade then such candidate belonging to scheduled caste/tribe shall be promoted first but when the consideration is in respect of promotion against the general category post in still higher grade then the general category candidate who has been promoted later shall be considered senior and his case shall be considered

senior and his case shall be considered first for promotion applying either principle of seniority cum merit or merit cum seniority. If this rule and procedure is not applied then result will be that majority of the posts in the higher grade shall be held at one stage by persons who have not only entered in service on basis of reservation and roster but have excluded the general category candidates from being promoted to the posts merely on the ground of their initial accelerated promotions. This will not be consistent with the requirement or the spirit of Article 16(4) or Article 335 of the Constitution."

Hence, before the claim of candidates for promotion to the post of Chief Parcel Supervisors is undertaken, the seniority list of Parcel Supervisors will have to be revised. Candidates ~~earlier~~ and who have ~~later~~ been appointed ~~but who~~ are senior to candidates belonging to the SC and ST ~~and~~ who ~~higher seniority on account~~ have been given accelerated promotions, have to be ~~placed in their original seniority~~ ~~given their due seniority which they would have attained but for the accelerated promotions granted to SC and ST candidates.~~ In other words, candidates belonging to the general category have to be assigned their original seniority over and above ~~those~~ of the candidates belonging to SC and ST candidates and thereafter promotions to the post of Chief Parcel Supervisors have to be granted. ~~considered undertaken~~

3. We, therefore, direct the respondents to undertake aforesaid exercise and thereafter proceed to pass orders of promotion. Respondents

are granted a period of three months to initiate aforesaid process of promotion.

4. Present OA is allowed in afore-stated terms. No order as to costs.


(M. P. Singh)
Member (A)


(Ashok Agarwal)
Chairman

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