

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 1384/89

New Delhi this the 4th day of April, 1994.

Shri Justice V.S. Malimath, Chairman.

Shri P.T. Thiruvengadam, Member(A).

Shri Krishan Chand,
S/o Shri Chatroo,
H.No. 46P, Railway Colony,
Sunderpuri,
Ghaziabad(UP).

..Petitioner.

By Advocate Shri S.K. Sawhney.

Versus

1. Union of India through
The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. Senior Divisional Personnel Officer,
Northern Railway,
Chelmsford Road,
New Delhi.

..Respondents.

By Advocate Shri P.S. Mahendru.

ORDER (ORAL)

Shri Justice V.S. Malimath.

The grievance of the petitioner in this case is that the promotions to the cadre of Material Checking Clerks have been made in clear violation of Rules 188 and 189 of the Indian Railway Establishment Manual (Vol.I). Shri Sawhney pointed out that the rules require offering opportunity to those who have the requisite years of eligibility service to their credit of appearing for the written test followed by an oral test. The material placed before us, it was urged, does not show that the rules were followed in that way and the steps were taken to effect promotions by interviewing such of those Material Checking Clerks who were holding all those posts on ad hoc basis and an attempt was also made to consider

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those persons who were holding as Material Checking Clerks when their juniors came to be considered on the ground that they were holding those posts on the specific dates. Shri Sawhney may be right in pointing out that the action taken to fill up the vacancies does not appear to have been made in accordance with Rules 188 and 189 which seem to govern promotion to those posts. The petitioner was himself promoted on ad hoc basis as Material Checking Clerk on 12.1.1989. He says that he was not considered for regular promotion whereas his juniors have been considered solely on the ground that they had somehow become Material Checking Clerks on the dates earlier than the petitioner. Shri Sawhney submitted that the action taken by the respondents is discriminatory and inconsistent with Rules 188 and 189. Prima facie, the petitioner appears to be right in pointing out that the action does not appear to have been taken in accordance with Rules 188 and 189. But then the promotions were made and those promotees have come to occupy the posts for the last several years. None of them having been impleaded as parties, we cannot disturb their appointment behind their back. Without disturbing their appointment, we would not be in a position to mandate the filling up of the vacancies in accordance with the statutory rules. It will not be just and proper, in our opinion, to give some ad hoc directions for the benefit of the petitioner only. We are conscious ✓ of the fact that the petitioner is a member

of the Scheduled Caste and care ought to be taken so that his rights are not unduly curtailed in an unjust manner. It is pertinent to point out that he was enabled to continue in the post of Material Checking Clerk on the strength of the interim order and we are informed that he has been regularly promoted to that cadre sometime in the year 1989. It is in this background and as the necessary parties are not before us, we shall close this case without forming any final opinion on the subject as it is not possible to adjudicate upon in these proceedings. This O.A. is accordingly disposed of. No costs.

P.T. Thiruvengadam
(P.T. Thiruvengadam)
Member(A)

V.S. Malimath
(V.S. Malimath)
Chairman

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