

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

...
O.A. No. 1954 of 1988

Date of Decision: 16th December 1993

Hon'ble Shri J. P. Sharma, Member (J)
Hon'ble Shri B. K. Singh, Member (A)

Shri Hira Lal
Assistant Superintendent
Q.No.267 A/Railway Colony
REWARI-123401
... Applicant

By Advocate Shri V. P. Sharma

Vs.

1. Union of India through
The General Manager
Northern Railway
Baroda House
NEW DELHI

2. The Divisional Railway Manager
Northern Railway
Bikaner

3. The Divisional Personnel Officer
Northern Railway
Bikaner
... Respondents

By Advocate Shri P. S. Mahendru

O R D E R
(ORAL)

Hon'ble Shri J. P. Sharma, Member (J)

The grievance of the applicant is that he is from Scheduled Caste community and has been promoted as Assistant Superintendent on ad-hoc basis on 22.7.1982. His contention is that one Shri Um Prakash junior to him has been promoted to the post of Superintendent w.e.f. 12.8.1987 (Annexure A/1), while the applicant has been ignored in breach of the 40 Point Roster benefit. The applicant filed the

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application on 29.9.1988 and prayed for grant of reliefs that the application be allowed and the impugned order dated 12.8.1987 be set aside as the case of the applicant has been ignored and the action of the respondents in not promoting the applicant, is arbitrary, illegal and unjust.

2. A notice was issued to the respondents. The respondents in their reply stated that the applicant was not due for promotion as Assistant Superintendent being far below in the seniority position of Head Clerk. While promoting the applicant on ad-hoc basis, it was clearly mentioned that promotion is subject to the decision of the Supreme Court of India. However, the applicant was called for selection although he was not eligible for general seniority but he was considered for reserved quota against Scheduled Castes. In view of this, the applicant was empanelled on 30.10.1982 to the post of ^{though} Assistant Superintendent (Mechanical) by the panel was provisional subject to the final decision of the writ petition pending in the Hon'ble Supreme Court of India on the reservation issue. It is also evident by the letter issued by D.R.M's. office dated 1.12.1982 (Annexure R-4). In short, the respondents have stated that the applicant got accelerated promotion to the post of Assistant Superintendent.

3. As regards promotion of Shri Om Prakash, he was appointed as Clerk on 17.7.1951 and was promoted as Senior Clerk w.e.f. 17.6.1961. He was further promoted as Head Clerk w.e.f. 14.12.1979 prior to the promotion of the applicant as Head Clerk. The said Shri Om Prakash was due for promotion as Assistant

Superintendent, but due to Court's Stay Order, he could not be considered. Thus, the applicant could not be promoted as Superintendent in the grade Rs.2000-3200.

4. We have considered the aspect on the basis of the pleadings and the arguments advanced by the counsels of the parties. On the one hand, there was a judgement in OA.49/86 in the case of All India Non-Scheduled Caste & Scheduled Tribe Association(Rlys), Bikaner Versus Union Of India and Others, wherein it was ordered that the respondents shall not make further promotions of candidates belonging to the category of SC/ST exceeding 15% and 7½% of the total number of post in a particular category, or grade in the department including workshops and stores of the Bikaner and Jodhpur Divisions of Northern Railway. A copy of the said judgement dated 13.1.1988 has also been annexed to the counter (Annexure A-7). The respondents have also annexed a copy of the order passed by the Hon'ble Supreme Court in the case of Shri Girdhari Lal Kohli and Others Versus Union of India dated 3rd December 1987 and the interim order passed on 30th December 1984 was ordered to be continued. Vide order of 21st December 1984, the Hon'ble Supreme Court ordered that any promotions which were made will be strictly in accordance with the judgement of the High Court in Civil Writ Petition No.1809 of 1972.

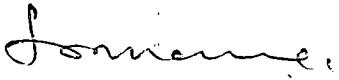
5. The matter has not been still finally disposed of by the Hon'ble Supreme Court regarding the main issue whether the promotion of SC/ST in any

Category of the post may be made of the candidates belonging to the SC/ST exceeding 15% and 7½% of the total number of post.

6. The case, therefore, cannot be disposed of on merit and the issue cannot be decided whether the applicant's claim is bonafide with regard to his promotion to the post of Superintendent in the grade Rs.2000-3200.

7. The applicant has since retired from service. The application is disposed of with the direction that the applicant may assail his grievances, if so advised, after the disposal of the aforesaid case by the Hon'ble Supreme Court. Parties to bear their own costs.


(B. K. Singh)
Member (A)


(J. P. Sharma)
Member (J)

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