

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 69/88 .. Date of decision: 18.05.93

All India SC/ST ..

Employees Association.. Applicants

Versus

Union of India, .. Respondents

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Hon`ble Sh. A.B. Gorthi, Member (A)

Hon`ble Sh. C.J. Roy, Member (J)

For the applicant .. None

For Respondents .. Sh. P.S. Mahendru with
Sh. K.N.R. Pillai, Counsel.

J U D G E M E N T (Oral)

(Delivered by Hon`ble Sh. A.B. Gorthi, Member (A))

It is a case of 1988 and need not be delayed further. We have, therefore, perused the material on record and heard the learned counsel for the respondents.

The prayer of the applicants is that the order dated 11.5.87 promoting Respondent No.3 to the post of Assistant Traffic Superintendent be quashed and the applicant No.2 be promoted to the said post.

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A further prayer is made for a direction to the respondents to provide due representation to the Schedule Tribe Community in Group B cadre of operating officers.

Applicant No.2 belongs to the caste Sansi which is a schedule caste. The short prayer of the applicants is that the said Sansi caste should be treated as a Vimukt Jati and included in the Schedule Tribe Community. Such a request was made in a Writ Petition filed before the High Court of Punjab & Haryana in Civil Writ Petition No. 132/75. The relevant portion of the judgement in the said Writ Petition is reproduced below :

"For the reasons recorded, I hold that the Constitution (Scheduled Castes) Order, 1950 is not ultra vires of the Constitution and it does not infringe any provision of the Constitution but I am of the view that the Vimukt Jatis to which the petitioners belong have been wrongly included in the list of the Scheduled Castes. In fact they should have been included in the list of the Scheduled Tribes and the Government of India may consider their deletion from the list of the Scheduled Castes and they may be included in the list of the Scheduled Tribes. With these observations this petition is disposed of with costs to be paid by the Government of India, Counsel's fee Rs. 500/-."

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From the above, it is apparent that while holding the Constitution (Scheduled Castes) Order, 1950 as not ultra vires, the High Court directed the Government of India to consider inclusion of Vimukt Jatis in the category of Scheduled Tribes and deletion of the same from the list of Scheduled Castes.

The Reservations and Concessions for Scheduled Castes and Scheduled Tribes of Swamy's Compilation (Appendix III) page 182 shows that in the State of Punjab, the Sansi Community is a Scheduled Caste. This is also in conformity with the Brochure which is issued as per Section 3 in the 1st Schedule in the Constitution (Scheduled Castes) Order 1950. At page 626, from the State of Punjab in Sl. No. 52, Sansi Community is included in Scheduled Castes.

The contention of the respondents is that the applicant admittedly belongs to Scheduled Caste and that it is not within the prerogative of the Railway Administration to treat him as a member of the Scheduled Tribe. On behalf of Respondent No.3, it is stated that his promotion to the post of Assistant Traffic Superintendent had nothing to do with the dispute pertaining to the promotion of the applicant. The Respondent No.3 belongs to the General community and his promotion to the post of Assistant Traffic Superintendent was in accordance with his seniority, as such.

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The short question that arises for consideration is that whether the applicant, who admittedly belongs to a scheduled caste, can be shown as a scheduled tribe candidate and given the benefit of promotion. As already stated above, the High Court of Punjab & Haryana had left the matter to be examined and decided by the Government of India. In the absence of any decision by the Govt. of India, in response thereto, the decision as exists under which Sansi community is shown as a scheduled caste, will prevail. We, therefore, find that the respondents have committed no such irregularity as would warrant our interference. They have rightly treated the applicant as belonging to scheduled caste and not to scheduled tribe.

In view of this, we find no merit in the application and the same is hereby dismissed. There shall be no order as to costs.

(C.J. Roy)

Member (J)

(A. B. Gorthi)

Member (A)