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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.221/86

Date of decision: 08.04.93

Shri Nand Lal Modi.

..Petitioner.

Versus

Union of India through
Secretary,
Ministry of Urban Development,
Govt. of India,
Nirman Bhavan,
New Delhi & Anr.

..Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. B.N. DHOUNDIYAL, MEMBER(A).

For the Petitioner.

.. In person.

For the Respondents.

.. Shri M.L. Verma,
Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

This case is by Shri Nand Lal Modi, who has approached this Tribunal for a direction to the respondents to give him promotion to the cadre of Stenographer Grade-I in the scale of Rs.550-900 with effect from 1.12.1984, the date on which Shri R.C. Wason who was promoted in the upgraded post, retired from service.

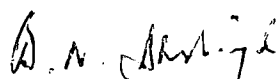
2. The petitioner commenced his career as Lower Division Clerk in the year 1957 in the Town and Country Planning Organisation. In due course he came to be recruited as Junior Stenographer in the year 1959. Thereafter, he earned promotion as Senior Stenographer in the year 1962. In 1977 there were in all 8 posts of Senior Stenographers. One Senior Stenographer was upgraded by an order made in the year 1978 to that of Stenographer Grade-I in the scale of Rs.550-900. In the said upgraded post Shri R.C. Wason who was senior to the petitioner was promoted. Shri R.C. Wason retired on 1.12.84. That vacancy was filled up and

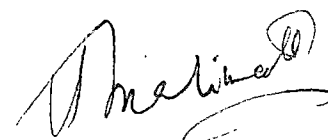
one Shri Zile Singh, a member of the Scheduled Caste, who was junior to the petitioner in the cadre of Senior Stenographer was promoted as Stenographer Grade -I. We are informed that subsequently the petitioner himself was promoted as Stenographer Grade -I sometimes in the year 1986. The petitioner's case is that he was entitled to be promoted in the vacancy caused on the retirement of Sh.R.C.Wason on 1.12.84. It is his case that according ^{of} promotion to Scheduled Caste candidate, Shri Zile Singh, a junior of the petitioner is not in accordance with law. The respondents in their reply have taken the stand that consequent upon ^{of} upgradation of one post of Senior Stenographer to that of Stenographer Grade I, the post was required to be filled up by the principle of seniority-cum-merit applying the reservation roster. It is their case that according to the relevant order regarding reservation even if first vacancy has to go to the member of the Scheduled Caste, it should not be filled up from amongst Scheduled Caste candidates but from the open market and the said vacancy be carried forward to the next year. It is their case that though the first vacancy according to the roster was meant for the member of the Scheduled Caste it was not given to him and Shri Wason who was not a member of the Scheduled Caste was given promotion. There was no vacancy thereafter until Shri Wason retired on 1.12.84. As a vacancy meant for the Scheduled Caste candidate according to the roster was required ^{to} be carried forward to the next year on the

the retirement of Shri Wason and the seniormost Scheduled Caste candidate amongst the Senior Stenographers, namely Shri Zile Singh was given promotion. The contention of the petitioner is that there was no first vacancy when Shri Wason came to occupy the post of Stenographer Grade I as he came to occupy that post by the process of upgradation and not by the process of promotion applying the reservation roster. The order upgrading the post of Senior Stenographer to that of Stenographer Grade I, a copy of which has been produced by the petitioner, itself stipulates that the upgraded post shall be filled up by applying the principle of seniority-cum-merit. The said order also further states that the relevant orders regarding reservation shall be followed. There is specific order dated 22.12.78 produced as Annexure R-III by the respondents in this behalf which says that as a consequence of upgradation of one post of Senior Stenographer, the cadre of Senior Stenographer will be reduced to one post. Para 3 of the said order further states that the selection for this post should be made in accordance with the Ministry of Home Affairs, Department of Personnel & A.R. OM dated 4.7.74. These documents make it clear that when the upgradation took place and new post of Stenographer Grade I became available that was required to be filled by promotion by applying the principle of seniority-cum-merit. That had to be done by applying the relevant orders governing reservation in favour of

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the member of the Scheduled Caste. As the said order says that the first post should be filled from amongst the open candidates even though on the roster point it is meant for the Scheduled Caste. Shri Wason, a non-Scheduled Caste candidate, was rightly promoted. As the Scheduled Caste lost the vacancy the said vacancy was required to be carried forward to the next year. The next year happened to be 1984 when Shri Wason retired. That post had to be given to a Scheduled Caste candidate who had to his credit the vacancy meant for the Scheduled Caste which was carried forward to next year from 1979 till 1984. In the circumstances, we are satisfied that granting promotion to Sh. Zile Singh, a member of the Scheduled Caste in the year 1985 by applying roster was justified as it is in accordance with the relevant orders governing reservation. The petitioner cannot claim that he should have been given promotion to that post having regard to the fact that he is not a member of the Scheduled Caste. We, therefore, see no good ground to interfere. This petition fails and is dismissed. No costs.


(B.N. DHOUNDIYAL)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN

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