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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

OA No.48/91
MA-3585/94

New Delhi this the 18th Day of April, 1995.

Hon'ble Mr. N.V. Krishnan, Vice-Chairman (A)
Hon'ble Dr. A. Vedavalli, Member (J)

R.C. Lahoria,
S/o Sh. Tota Ram Lahoria,
R/o 52 Schoolpura,
Prem Nagar,
Jhansi.Applicant

(By Advocate Sh. K.N.R. Pillai)

Versus

1. Union of India through
the Secretary,
Ministry of Railways
(Railway Board),
New Delhi.
2. The Chief Personnel
Officer (Engineering)
Central Railway,
Bombay VT.Respondents

(By Advocate Sh. P.H. Ramchandani)

ORDER(Oral)
(Mr. N.V. Krishnan, Vice-Chairman(A))

The applicant belongs to a Scheduled Caste community. His grievance is that the second respondent, the Chief Personnel Officer (Engineering), Central Railway, did not consider him for promotion to the next higher post on the basis of his seniority as Inspector of Works (IOW) Grade-I as per the Annexure A-III seniority list issued by the respondents. Instead, the respondents have treated him to be junior to others based on his seniority in the initial recruitment grade of IOW Grade-III. Accordingly, he has filed this application seeking the following directions:-

"a) A direction to the respondents to determine the applicant's suitability for promotion to the grade Rs.840-1040(RS)/2375-3500(RPS) on 8.9.87 when his juniors were promoted overlooking his claims, and if found suitable,

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to grant him promotion from 8.9.87 with all consequential benefits including arrears for the period from 8.9.87 onwards.

b) A direction that since the applicant's position is serial No.129 in the Seniority List at Annexure A-III and since at least 155 general candidates junior to him havd been called for the Group B selection announced by the notification dated 6.12.90, the applicant by virtue of his general seniority based on empanelment in the 1981 panel, should be allowed to appear in the selection for the unreserved vacancies alongwith the general candidates and given all benefits if selected."

2. The respondents have filed a reply, opposing these claims.

3. In the meanwhile, a similar matter had come up for consideration before a Full Bench of this Tribunal sitting at Calcutta in which a judgement has been delivered on 21.2.94. Based on that judgement the applicant has filed MA-3585/94 praying that direction may be issued in terms of the Full Bench judgement to the respondents that the applicant may be considered for promotion in accordance with his seniority based on regular appointment in the grade of Rs.2000-3200 as IOW, pending a final decision by the Supreme Court. A copy of this MA was served on the respondents, and though sufficient time was given, no reply was filed by the respondents to the MA. The right of the respondents to file reply to the MA was forfeited.

4. The matter has come up today for final hearing. The learned counsel for the respondents submits that he is still awaiting instructions from the second respondent who is located at Bombay.

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5. In so far as the judgement of the Full Bench is concerned, the learned counsel for the respondents admits that the judgement of the Full Bench, referred to above, is relevant and hence we are of the view that based on that judgement the OA itself can now be disposed of.

6. Para-5 of the judgement of the Full Bench of the Tribunal (CAT (FB) Vol. III 323 Durga Charan Halder & Ors. *& others & an* vs. Union of India & Ors.), refers to/earlier decision of the Full Bench of this Tribunal sitting at Hyderabad in OA-759/87 - V. Lakshminarayanan Vs. Union of India & Ors. decided on 27.2.92 (CAT (FB) Vol. III 91), reads as follows:-

"5. Whereas some of the learned counsel appearing in these cases argued that the expression of views by the Hyderabad Full Bench in the above paragraphs should also be regarded as tentative in the light of the observations in para 49 of the Full bench Judgement, other learned counsel argued that so far as this question is concerned the Hyderabad Full Bench has finally expressed its views in the above paragraphs. In our view the findings in paras 23,24&25 are not tentative. The Full Bench has not said so. On a careful reading of the judgement of the Full Bench, we are satisfied that on the question of counting seniority of those SC/ST candidates who have secured accelerated promotions by virtue of reservation, in the matter of their further promotion, the Full Bench has expressed its final views in paragraphs 23,24 & 25."

7. It is clear that the decision of the Full Bench in V. Lakshminarayanan's case in respect of seniority is a final decision of that Bench, though the matter, admittedly, is pending in appeal before the Supreme Court. The learned counsel for the applicant has also produced a copy of a letter No. HPB/22640/CS/SC-ST dated 27.4.94 dated 27.4.94 issued by the Chief Personnel Officer, Bombay to D.R.H. Jhansi and others, following the aforesaid Full Bench judgement rendered at Calcutta, in which it has been directed

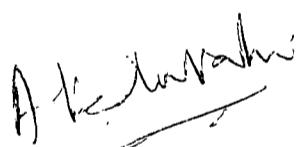
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that the promotion to be made should be in accordance with paragraphs 23, 24 and 25 of the Full Bench judgement of the Hyderabad Bench in V. Lakshminarayanan's case.

8. In the circumstances, we are of the view that the OA itself can now be disposed of with suitable directions to the respondents. Accordingly, the respondents are directed to consider the question of promotion of the applicant from the post of IOW Grade-I to the higher post in terms of paragraphs 23, 24 and 25 of the judgement of the Full Bench of this Tribunal rendered in V. Lakshminarayanan v. Union of India & Others (CAT (FB) Vol.III 91) making it absolutely clear that any decision by them in this regard will ultimately be subject to the decision of the Supreme Court before whom this matter is pending in appeal.

9. The O.A. and the MA both are disposed of accordingly. No costs.


(Dr. A. Vedavalli)
Member(J)

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(N.V. Krishnan)
Vice-Chairman(A)

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