

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.1173/2004

New Delhi this the 14th day of December, 2004.

HON'BLE MR. V.K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

1. All India Equality Forum
having registered office at
IV/N 20, Double Storey,
Lajpat Nagar, New Delhi
Through its Secretary General,
Shri Jagdish Rai Agarwal,
R/o II-B-4, Jai Narain Vyas Colony,
Bikaner.
2. Shri Jagmohan Singh,
S/o S. Tirath Singh,
R/o C-51, Fateh Nagar,
Jail Road,
New Delhi.
3. Shri Mukesh Kumar Vashisshta,
S/o Shri Sajjan Lal,
R/o 22, Inderpuri,
Near Satya Nagar,
Jhotwara-Jaipur.
4. Shri Jaswant Lal Mali,
S/o Shri Khem Raj Ji Mali,
R/o 516/16,
House of Rampal Parihar,
Topdara, Ajmer.

-Applicants

(By Advocate Shri T.S. Pandey)

-Versus-

1. Union of India through
the Chairman,
Railway Board,
Rail Bhawan,
New Delhi.
2. Chief Works Manager,
North Western Railway,
Ajmer.
3. Director Pay Commission,
Railway Board,
Rail Bhawan,
New Delhi.



4. The General Manager,
Baroda House,
New Delhi.
5. The General Manager,
North Western Railway,
Headquarter Office,
Jaipur.
6. The Chief Administrative Officer,
Diesel Component Works,
Northern Railway,
Patiala.
7. The General Manager,
Railway Coach Factory,
Kapurthala.
8. The Divisional Railway Manager,
North Western Railway,
Jaipur.
9. The Divisional Railway Manager,
North Western Railway,
Ajmer.
10. The Divisional Railway Manager,
North Western Railway,
Bikaner.
11. The Divisional Railway Manager,
North Western Railway,
Jodhpur.
12. All India Scheduled Caste
& Scheduled Tribe Railway
Employees Association,
Through its General Secretary,
171-B/C, Basant Lane,
Railway Colony,
New Delhi-110055.

-Respondents

(By Advocates S/Shri Rajinder Khatter, V.S.R. Krishna and N.S. Verma)

ORDER (ORAL)

Mr. Shanker Raju, Hon'ble Member (J):

In this OA All India Equality Forum with other aggrieved parties have assailed RBE letter No.177/2003 dated 9.10.2003, whereby restructuring has been ordered in Group 'C' and 'D'



cadres. Clause 14 of the aforesaid letter providing reservation to SC/ST has been assailed.

2. Learned counsel of applicants contended that by virtue of this re-structuring there is no change in the cadre strength and only res-distribution has been done, as such without any iota of any promotion reservation is not permissible. Referring to the Railway Board's letter dated 17.10.1983 it is stated that the reservation was subject to pending Writ Petitions and Appeals in any Court of Law and in this backdrop while referring to the Contempt Petition (C) No.304/99 in CA-1481/96 decided on 3.1.2001 it is contended that the ratio in **All India Non-SC/ST Employees Association v. V.K. Agarwal & Others** still holds the field and by virtue of this order of re-structuring is rendered illegal with the result seniority and other consequential benefits of applicants are to be re-determined on the premise that no limitation is attracted while enforcing Fundamental Rights enshrined under Articles 14 and 16 of the Constitution of India.

3. Learned counsel of applicants Shri Pandey has referred to a decision of Chandigarh Bench in 13 OAs decided by a common order No.124-PB/2004 and batch in **Unreserved Employees Association v. Union of India & others** to contend that paragraph 14 of the memo dated 9.10.2003 having been set aside, the re-structuring whereby reservation was accorded to SC/ST is a nullity. It is stated that on all fours the case of applicants is covered by the aforesaid ratio.

4. On the other hand, respondents' counsel took preliminary objection of Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987 and on merits a reference has been made

to a decision of the Lucknow Bench of this Tribunal in OA-46/2004 - **Harish Chandra v. General Manager** decided on 26.7.2004, where reservation re-structuring has been upheld. Further reliance has been placed on a decision of the Lucknow Bench in OA-356/2004 decided on 4.10.2004 in re: **K. Chandrasekhar v. Union of India** where the re-structuring was upheld finding no legal infirmity.

5. On careful consideration of the rival contentions it is trite law that the Tribunal is bound by the doctrine of precedent as held by the Apex Court in **S.I. Rooplal v. Lt. Governor of Delhi & Ors.**, JT 1999 (9) SC 597 in view of the divergent opinions on the identical issue by different Benches, Judicial propriety requires referring the above OA to a larger Bench.

6. In this view of the matter, the matter be placed before the Hon'ble Chairman on administrative side for his appropriate orders.

S. Raju
(Shanker Raju)
Member(J)

V.K. Majotra
(V.K. Majotra)
Vice-Chairman(A)
14/12/04

'San.'

Free MA filed
MA 1730/15 along with
f. Bench order dt 10/8/05
for disposal of SA.