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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.334/2004

This the 27th day of July, 2006

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

1. Shri Prem Kumar Verma,
Depot Material Superintendent-I,
Office of the Controller of Stores,
Rail Coach Factory (Kxh),
Tilak Bridge, New Delhi.
2. Shri Prashant Kumar,
Office Superintendent-I,
Office of the Controller of Stores,
Rail Coach Factory (Kxh),
Tilak Bridge, New Delhi. Applicants

(By Shri Rajeev Sharma, Advocate)

versus

1. Union of India through
Secretary, Railway Board,
Ministry of Railways,
Rail Bhawan,
New Delhi-110001.
2. General Manager (P),
Rail Coach Factory,
Kapurthala,
Hussainpur (Punjab).
3. Controller of Stores,
Rail Coach Factory,
Kapurthala,
Hussainpur (Punjab).
4. Senior Personnel Officer,
Rail Coach Factory,
Kapurthala,
Hussainpur (Punjab).
5. Shri Sukhdev Singh,
Deputy Material Superintendent-I,
Rail Coach Factory,
Kapurthala,
Hussainpur (Punjab).

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Hussainpur (Punjab).

Vb

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6. Shri K. P. Verma,
Office Superintendent-I,
Rail Coach Factory (Kxh),
Tilak Bridge, New Delhi-110002. ... Respondents

(By Shri Rajinder Khatter, Advocate)

ORDER

Hon'ble Shri V. K. Majotra, Vice-Chairman (A):

By virtue of this OA, applicants have challenged Annexure A-1 dated 27.1.2004 whereby respondents 5 and 6 were invited to participate in a suitability test for promotion due to cadre restructuring in the post of Chief Depot Material Superintendent and Chief Office Superintendent respectively. It has been alleged that action of respondent No.4 for calling ACRs of respondents 5 and 6 for the purpose is against the policy of reservation and law laid down by the Hon'ble Supreme Court. Direction has been sought for respondent No.4 to finalize cadre restructuring process as per rules and law maintaining seniority of applicants as per seniority list issued by respondents. Respondents 5 and 6 are stated to be from reserved categories.

2. We have heard the learned counsel of both sides.

3. It has been brought to our attention that the issue raised in the present OA stands concluded by the Full Bench judgment of the Tribunal rendered on 10.8.2005 in OA No.933/2004 – *P. S. Rajput & two Others v Union of India & Others* as also in OA No.778/2004 – *Mohd. Niyazuddin & 10 Others v Union of India & Others*, wherein it was held that the upgradation of the cadre as a result of restructuring and adjustment of existing staff will not be termed as promotion attracting the principles of reservation in favour of the SC/ST.

4. It is further noticed that on an identical issue the Hon'ble Supreme Court has granted special leave to appeal in SLPs (Civil)...../2005 arising out of judgment and order dated 3.3.2005 in CWP No.3182/2005 decided by Hon'ble



High Court of Punjab & Haryana at Chandigarh. Certain other SLPs are also stated to be pending before the Hon'ble Supreme Court, namely, SLPs (C) 14550/2005, 13209/2005, 13125-13137/2005. The leave in the aforesaid SLPs filed by CC No.6536/2005 was granted by the Hon'ble Supreme Court vide order dated 14.11.2005. The issue raised in the present application would be covered by any judgment to be rendered by the Apex Court in the aforesaid SLPs. Law laid down in this manner on the said subject would be binding on all parties including those who have not approached the Court, being a law under Article 141 of the Constitution of India.

5. OA No.1173/2004 – *All India Equality Forum & Others v Union of India & Others* was disposed of vide order dated 29.11.2005 observing that the judgment to be rendered by the Hon'ble Apex Court in the aforesaid SLPs would be binding upon the parties in that case also. The present OA is also disposed of with similar observations.

S. Raju
(Shanker Raju)
Member (J)

/as/

V.K. Majotra
(V. K. Majotra)
Vice-Chairman (A) 27.7.06