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**CENTRAL ADMINISTRATIVE TRIUBNAL
ALLAHABAD BENCH : ALLAHABAD**

ORIGINAL APPLICATION NO.1328 OF 2005

ALLAHABAD, THIS THE 1ST DAY OF DECEMBER, 2006

CORAM :

**HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE MR. M. JAYARAMAN, ADMINISTRATIVE MEMBER**

1. B.N. Singh, S/O Shri Mudrika Singh,
working as T.T.E. Allahabad
2. Shamail Abbas, S/O Shri S. Abdul Hassan,
Working as T.T.E. Allahabad.
3. Narendra Nath Verma S/O Shri Valz Nath Verma,
Working as T.T.E. Allahabad.
4. Om Prakash S.O Shri Bhola Nath Working as T.T.E. Allahabad.
5. Syed Gazanfar Abbas S/O Syed Asghar Abbas as
T.T.E. Aliahabad.
6. Jagdamba Prasad, S/O Shri M.P. Tiwari as T.T.E. Allahabad.
7. Shahabuddin S/O Shri Nizamuddin, Working as t.T.E.
Allahabad.
8. Nivedita Rai Son of Shri N.G.Rai, Working as T.T.E. Allahabad.
9. Vishva Nath Pandey S/O Shri Kamla Kant Working as T.T.E. Allahabad.
10. Rahmat Ulla Son of Shri Shafat Ulla Working as T.T.E.
Allahabad.
11. Z.H. Chaudhari S/O Shri Ram Manorath Working as T.t.E. Allahabad.
12. Ghanshyam Singh, Son of Shri Ram Manorath Working
as T.T.E. Aliahabad.
13. Afzal Karim S/O Shri Khalil Karim Working as T.T.E.
Allahabad.
14. Mata Deen S/O Ram Swaroop Working as T.T.E. Allahabad.

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15. Shiv Shanker S/O Shri M.S. Tripathi Working as T.T.E. Allahabad.
16. Rajan Singh S/o Shri Pooran Singh Tundia.
17. Ram Je Mishra S/o Shri Ram Prayag, Working as T.T.E. Allahabad.
18. Indra Jeet Singh Son of Shri Prahalad Singh, Working as T.T.E. Allahabad.
19. Z.V. Khan S/O Shri P.Y. Khan Working as T.T.E. Allahabad.
20. Surya Bhushan Mishra S/O Shri N.N.Mishra, Working as T.T.E. Allahabad.
21. Manoj Kumar S/o Shri K.P. Tripathi, Working as T.T.E., Allahabad.

..... Applicants

By Advocate : Shri D. K. Mishra

Versus

1. Union of India,
Ministry of Railway,
Through its Secretary, Railway Board,
Rail Bhawan, New Delhi.
2. Union of India through the General Manager,
(N.C.R.) Allahabad.
3. The Divisional Railway Manager (P) (N.C.R.)
Allahabad.

..... Respondents

By Advocate : Shri Anil Kumar.

ORDER
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The challenge in this OA is that the respondent Railways have afforded reservation even in respect of re-structuring. Earlier the applicants approached the Tribunal in OA No. 214/05 and the same was disposed of with a direction to the respondents to consider the representation of the applicants, vide order dated 07-03-2005. In pursuance of the same the



respondents have passed the impugned Annexure-1 order dated 16/20.06.05 justifying the reservation in respect of restructuring as well and the justification is as under:-

"So far, the question of the applicability of reservation policy in restructuring is concerned, the reservation policy is applicable in the light of the Hon'ble Supreme Court decision in the case of Girdhari Lal Kohli and R.K. Sabbarwal on 10-02-1995. Made reference to the case of J.C. Malik Hon'ble Supreme Court had finally adopted the Principles of post based reservation vide its order dated 26-07-1995 and interim order dated 21-12-84 passed in the case of Girdhari Lal Kohli, it was finally confirmed by the Supreme Court in the matter of R.K. Sabbarwal, that while making promotion against the additional posts due to restructuring of the Railway should follow the law laid down of post based reservation."

2. Counsel for the applicants has relied upon the order dated 25.10.2004 of the DOP&T and also the Full Bench Judgment in the case of P.S. Rajput and two others vs. Union of India and Others reported in 2006 (1) ATJ 36.

3. The Full Bench in that case precisely dealt with this aspect and held as under:-

"The question which craves for answer and in fact stares glaringly at us, reads :

'....whether upgradation of a cadre as a result of restructuring and adjustment of existing staff in the upgraded cadre can be termed to be promotion attracting the principle of reservation in favour of SC/ST'.



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42. Resultantly, we answer the question as under:

ANSWER:

The upgradation of the cadre as a result of the restructuring and adjustment of existing staff will not be termed as promotion attracting the principles of reservation in favour of Scheduled Caste/Scheduled Tribe."

4. In view of the above, there is no question of reservation in restructuring and as such, the decision of the respondents is legally unsustainable.

5. As such, the OA is allowed. Impugned order dated 16-06-2005 (Annexure A-1) is hereby quashed and set aside and the respondents are directed to issue a fresh panel of Head T.T.E and if the applicants are seniors enough to be included in the list, they be considered for such placement. Their pay should be fixed notionally from the date other Hd. TTEs (placed under the restructuring) were placed and actually from the date of enshouldering the higher responsibilities. This order shall be complied with, within a period of three months from the date of communication of this order. No costs.



M. JAYARAMAN
ADMINISTRATIVE MEMBER



Dr. K B S RAJAN
JUDICIAL MEMBER