

AF (13)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 645 of 1986

Allahabad this the 20th day of May 1996

Hon'ble Dr. R.K. Saxena, Member { Jud. }
Hon'ble Mr. D.S. Baweja, Member { Admn. }

K.N. Sinha, S/o Sri S.C. Sinha, Deputy Station
Supdt. at Billi Junction Chopan.

APPLICANT

By Advocate Sri V.K. Burman

Versus

1. General Manager, Eastern Railway, Calcutta.
2. Chief Personnel Officer, Eastern Railway, Calcutta
3. Divisional Rail Manager, Eastern Railway, Dhanbad.

RESPONDENTS

By Advocate Sri G.P. Agrawal

O R D E R

By Hon'ble Dr. R.K. Saxena, Member (J)

This O.A. has been preferred by the applicant seeking direction to the respondents not to promote Schedule Caste/Schedule Tribe category of employees beyond the prescribed quota and those S.C./S.T. employees who had availed of reservation, should not be allowed to compete with the employees

D

:: 2 ::

of general category for seniority or for promotion and appointment on the post of Station Superintendent Grade Rs.700-900/-.

2. The brief facts of the case are that the applicant who had started his career as Assistant Station Master, was holding the post of Deputy Station Superintendent at the time of filing of this O.A. There are two promotional posts of Station Superintendent in the grade of Rs.700-900/- and Station Superintendent Rs.840-1040/-. The applicant while working as Deputy Station Superintendent and finding himself quite senior, was expecting his promotion as Station Superintendent in the grade of Rs.700-900/-. There were 49 sanctioned posts of Station Superintendent in the grade of Rs.700-900/- and 18 appointments were made. Of them, 4 had retired. However, for filling up the vacancies of 40 remaining vacancies, the promotions were made from amongst the employees belonging to S.C./S.T. categories ignoring the seniority of general candidates. It was further contended that out of 12 promotees, ²nine belonged to S.C./S.T. category and thus, ⁴the reservation quota reached 75%. In the month of March, 1986, the promotion to the post of

:: 3 ::

Station Superintendent in the grade of Rs.840-1040/-
was made and Sri D.K. Burman who was a S.C.
candidate and was quite junior, was again promoted. Feeling aggrieved by these acts of the respondents, this O.A. has been filed with the reliefs as are already discussed.

3. The respondents filed the counter-reply and contended that the posts of Station Superintendent in the grade of Rs.700-900/- were filled through selection. For the promotion to the post of Station Superintendent in the grade of Rs.840-1040, senior-most candidates in the grade of Station Superintendent Rs.700-900/- appeared in the suitability test and those who were found suitable, they were promoted. The promotion of Sri D.K. Burman has been justified and Sri K.G. Rai has been described as junior in the ^{seniority} office and in the scale both. It was further averred that the candidates belonging to the reserved community, were promoted on the basis of their general seniority and not on the basis of the seniority of their category. It is, however, pointed out that there is no merit in the case. Subsequently, the supplementary counter-affidavit was also filed in which the details of percentage of reservation and other things were disclosed.

:: 4 ::

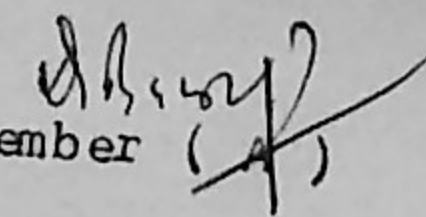
4. We have heard Sri V.K. Burman, learned counsel for the applicant and Sri G.P. Agrawal, learned counsel for the respondents and have perused the record.

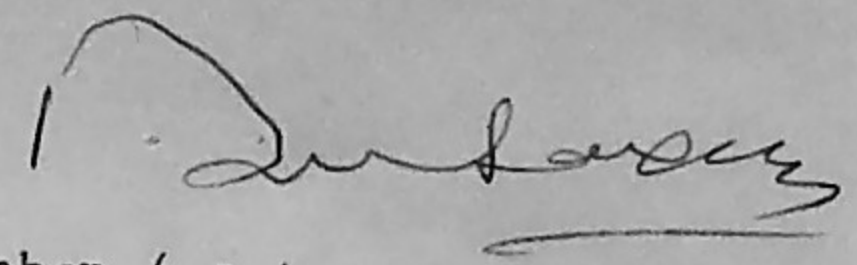
5. Both the counsel have fairly conceded² that the questions which have been raised in this O.A., are now settled by the Judgment in " R.K. - Sabharwal Vs. State of Punjab and Others 1995(1) S.L.R. 791' and 'Vir Pal Singh Chauhan Vs. Union of India and Others 1996(1) A.I.S.L.J. 65' . Their Lordships of Supreme Court in Sabharwal's case held that the principles which were laid down about the promotion between the general candidates and S.C./S.T. candidates, shall be applicable w.e.f. 10/2/95 . Any promotion whether made in an excess of the quota or made against the vacancies and not in the cadre, has ~~been~~^{to} be ignored if that was done prior to 10/2/95.

6. In this case the main dispute raised by the applicant is that the employees belonging to S.C./S.T. have been promoted out of turn in the year 1984 and 1986. The seniority of the employees belonging to general categories was completely ignored. In view of the law laid down by their Lordships of Supreme Court in the

:: 5 ::

cases of R.K. Sabharwal and Vir Pal Singh Chauhan,
these matters related to the year prior to 10/2/95,
and thus, no interference can be done. Keeping
those principles in view, we do not find any
merit in the O.A. and the O.A. is, therefore,
dismissed. No order as to costs.


Member (A)


Member (J)

/M.M./