

X

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH ALLAHABAD

T. A. No.567/86
(Original Suit No.406/84)

Akhil Bhartiya Shosit
Karmchari Sangh (Rly) & ors...Plaintiffs
vs.
Union of India & othersRespondents

Hon'ble Mr K. Obayya, A.M.
Hon'ble Mr J.P. Sharma, J.M.

(By Hon'ble K. Obayya, A.M.)

The above described suit instituted in the Court of Munsif Gorakhpur stood transferred to this Tribunal for disposal under Section '29' of the Administrative Tribunals Act, 1985. The reliefs claimed in the suit are:

A. That a decree be passed against defendant No. 3 that on those posts where there is direct recruitment more than $66\frac{2}{3}$ per cent and also on those posts where departmental promotions, the facility of reservation be not given.

B. Defendant No. 3 be directed to cancel all promotions which have been effected in violation of circulars of reservation.

2. Plaintiff No. 1 is an association. Plaintiff No. 2 to 4 are working in the North Eastern Railway and are challenging the Reservation rules for Scheduled Castes and Tribes. This suit was instituted in the year 1984 and the matter is very old. When the case was called, none was present on both sides. However, we have seen the record and the written arguments filed by the counsels, on the basis of which we propose to dispose of this case.

3. The issue involved in this suit relates to reservations to Scheduled Caste/Tribe Candidates in the matter of appointment and promotions. North Eastern Railway issued several circulars to give effect to Reservation Policy as laid down by the Central Government. The contention of the

f

plaintiffs is that there should not be any reservation for Scheduled Castes and Scheduled Tribes, where the direct recruitment quota is more than $66\frac{2}{3}$ per cent of the posts, in case of direct recruitment, and in departmental promotions also there should not be any reservations.

4. The contention of the plaintiffs is that where there is no element of direct recruitment, there should not be reservation for Scheduled Caste/Scheduled Tribe Candidates. The stand of the defendants, in their written statement is that according to instructions of Ministry of Home Affairs, reservation for SC/ST is provided in all recruitment grades. The Railway Board's circular letter dated 05.04.1976 lays down that the reservation should be followed in Class I, II, III and IV posts both under direct recruitment as also on promotions made on the basis of seniority/suitability. Reservation is also provided to Class II, III and IV posts where recruitment is limited to departmental candidates by a departmental examination and also for promotion within Class III and from Class III to Class II and last rung of Class I on the basis of selection provided that the direct recruitment quota does not exceed $66\frac{2}{3}$ per cent.

5. This issue has been comprehensively dealt by the Supreme Court. It would appear, the circulars issued by the Railway Board, which all assailed in this suit on the point of reservation to SCs and STs were challenged in the Supreme Court by the plaintiff No. 1 in Writ Petitions 1040 to 1044, and the Hon'ble Supreme Court upheld the validity of the circulars and the petitions were dismissed by order dated 14.11.1980 (AIR 1981 SC P 298).

6. The policy of reservation has been upheld by the Supreme Court in a number of decisions. Constitutional safeguards have been provided to certain sections of society, who suffer social disabilities, so that they could come up and join

the main stream of the society. In recent times, there has been considerations to bring out an Act so as to make reservations a statutory obligation on the administration.

In this background of the matter, the Tribunal cannot issue any direction on the reliefs prayed for as to what percentage reservation should be adopted or whether or not reservation to be made to SCs & STs in Employment and Promotion. In these circumstances, the suit is liable to be dismissed; accordingly we dismiss the suit; parties to bear their costs.

Judl. Member. -

(KARNA)

August 9, 1990
Allahabad.

R. H. May Jr.
Adm. Member.

Adm. Member.