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Reserved

Central Administrative Tribunal, Allahabad.

Registration T.A.No.131 of 1987

Govind Singh and another ...

Applicants

Vs.

Union of India and others ....

Respondents.

Hon.D.K.Agrawal, JM

Hon.K.Obayya, AM

(By Hon.D.K.Agrawal, JM)

Civil Misc.Writ Petition No.1749 of 1985 on being transferred <sup>from High Court, Allahabad</sup> to this Tribunal under the provisions of S.29 of the Administrative Tribunals Act XIII of 1985 was registered as T.A.No.131 of 1987, as indicated above. The petition was filed for quashing the order dated 4.1.85 annexure 9 to the petition, as well as for issuance of direction in the nature of mandamus directing the Respondent nos. 1 to 4 not to promote more than 15 per cent Scheduled Caste candidates from the post of Chargeman 'A' to the post of Asstt. Superintendent in Mechanical Workshop at Jhansi.

2. We may, at the outset, mention that the order dated 4.1.1985, annexure 9 to the petition, alleged to be impugned order, is not an order of promotion. It is only an order of posting. This order was passed in consequence of panel prepared by Departmental Promotion Committee on 11.12.1984. We have been shown the original proceedings of the selection committee dated 11.12.1984. On the basis of the proceedings of the selection committee dated 11.12.1984, a panel was formed on 18.12.84 which specified the merit order of the candidates- SC/ST/General category of candidates. Thereafter, on 19.12.84, the

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postings were ordered vide office order no.172 of 1984. Annexure 9 is only an extract of the aforesaid office order. Therefore, virtually it means that we have to look into the formation of panel by Selection Committee dated 11.12.1984 to find out as to whether the SC or ST quota was exceeded to or any other irregularity was committed. It is unfortunate that neither the Applicants have pleaded it nor the Respondents have taken any plea to that effect in their Counter Affidavit. It may be excusable for the Applicants but it is not excusable at all for the Respondents. The reason is that the original record being available with the Respondents, they should have pleaded their case clearly in Counter Affidavit. It appears to us that the railway administration is not taking care to defend its cases before the Central Administrative Tribunal (particularly at Allahabad). It is appalling to note that the officials deputed are not well equipped with facts. Consequently, we are faced with great difficulty in understanding the complexities of the case. In the instant case, we had to devote about three hours wading through the confidential file of the railway to lay hand on correct information. In any case, the question is as to even if the selection held on 11.12.1984 was done in accordance with rules, whether the per centage of reservation in Jhansi Workshop was computed correctly or not. It may be mentioned at this stage that the post of Asstt. Superintendent Workshop was in a common pool controlled by Headquarters' office on seniority basis of all workshops of the Central Railway. However, these posts were decentralised vide Headquarters' letter no.HPB/785/M2/D/WS/UPG dated 27.3.1985. Therefore, we are concerned with the workshop at Jhansi to which the Applicants belong to. According to the Applicants, the strength of Asstt. Superintendent of Workshop at Jhansi on the date of the Application was 27 (Fitter Trade). What is the position today, is not known to us. The Railway officials present in the Court by the side of the learned counsel for the Respondents were unable to disclose the strength of Asstt. Superintendent of Workshop at Jhansi as on date. Out of these 27 posts, 5 SC candidates are already there at Roster points 1,8,14,22,28..... (as disclosed by learned counsel for the Respondents (assisted by officials)).

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3. Before we proceed further, we have to examine as to what is the order which has been treated by the Applicants as adverse to them. It has not been shown to us that the Applicants were denied the right of promotion on account of excess quota being filled by reserved category candidates. Placement of the Applicants in the seniority list has not been brought before us either by the Applicants or the Respondents. The result is that we are unable to understand to find out as to what grievance the Applicants can possibly have. Learned counsel for the Applicants submitted before us that the railway administration has to take into consideration the inter se seniority of Chargeman 'A' for promotion to the post of Asstt. Superintendent, Workshop on the basis of the principles laid down in the case of Vir Pal Singh Chauhan Vs. Union of India and others (A.T.R. 1987 (2) CAT-71). If necessary the inter se seniority of Chargeman grade 'A' for the purpose of such promotion may be reviewed or redetermined. The Railway Administration has to ensure conformity with principles of filling up the post by reserved candidates on promotion strictly adhering to the Roster points fixed in accordance with rules, which provides 15 per cent of the vacancies to be filled by Scheduled Caste and 7½ per cent by Scheduled Tribe candidates and not in excess thereof, as laid down in J.C. Malik Vs. Union of India (1978(1) SLR -855). In other words, the learned counsel for the Applicants urged that the interest of the Applicants may not be put to jeopardy in future on account of lapse on the part of railway administration on the above counts. Learned counsel for the Applicants frankly conceded before us that he was not entitled to any relief of seeking a direction for reversion of any of the candidates, already selected.

4. In view of the aforesaid discussions, we hereby direct the Respondent nos. 1 to 4 to review or redetermine the seniority of Chargemen grade 'A', if necessary, to conform to the principle or rules laid down in Vir Pal Singh Chauhan's case (Supra) for the

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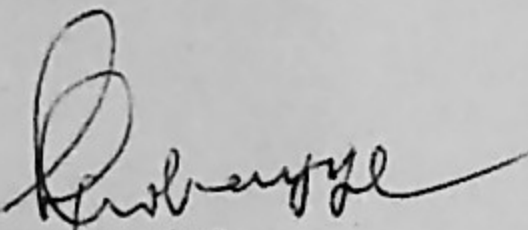


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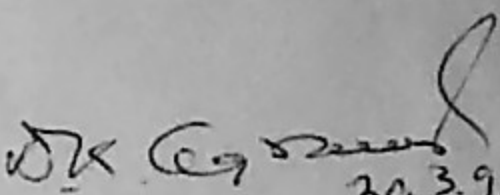
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purposes of promotion to the post of Asstt. Superintendent, Workshop and to examine that promotion by reservation does not exceed by 15 per cent in the case of SC and  $7\frac{1}{2}$  per cent in the case of ST candidates. In case, it has already exceeded, the excess may be absorbed in the future vacancies. There will be no order as to costs.

5. Let a copy of this judgment be sent to the Chairman Railway Board as well as the General Manager, Central Railway for such action as they may deem fit.

  
MEMBER (A)

Dated: 30th March, 1990  
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MEMBER (J)