

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

T.A., No. 1308 of 1987.

Akhil Bhartiya Sampradaikta Virodhi Rail Karamchari
Sangh, DIW, Varanasi & another.....Applicants.

Versus

Union of India & another Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, A.M.

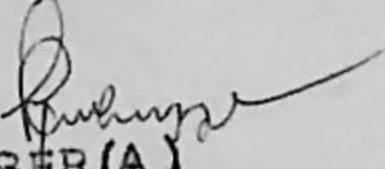
(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

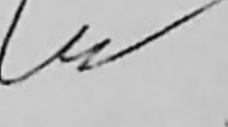
The so-called Association of some of the railway employees which has given its name as Akhil Bhartiya Sampradaikta Virodhi Rail Karamchari Sangh along with one N.D. Srivastava, Senior Designer, Mechanical Department, filed a writ petition before the High Court for directing the respondents to follow the law laid down by the High Court in its judgment passed in Civil Misc. Writ Petition No. 1800/72 'J.C. Malik & others Vs. Union of India & others' and also as directed by the Hon'ble Supreme Court in its order dated 24.9.84 and 21.12.84. By operation of law, this writ petition has been transferred to this tribunal for adjudication.

2. The respondents in their detailed reply have stated that the order passed by this tribunal as well as by the Supreme Court is being followed. In J.C. Malik's case, the High Court held that "reservation for scheduled caste/scheduled tribe employees has been made in cadre of posts and services and not in vacancies occurring from time to time in the cadre. There is none in the policy." Accordingly, it was directed that the appointment shall be made strictly in accordance with their quota so-fixed by the Government. The matter came before the Supreme Court and the Supreme Court in its order also directed that till further orders,

the judgment passed by the High Court in J.C.Malik's case shall be implemented throughout the country.

It was thereafter the Railway Board issued a letter dated 26.2.85 and according to the Railway Administration they are giving effect to to the J.C.MALIK's case. In view of the fact that the effect to the same is being given, no effective relief as such can be granted, except the direction that whatever appointment and promotions will be made, the same will be made strictly in accordance with the J.C.Malik's case. As to what will be the position in case the said judgment is reversed, no observation in this behalf can be made. In case, any appointment or promotion have been made in excess of the quota, it is for the Government to make the appointment intact or the promotion intact by creating posts to its cadre or otherwise for such persons. With these observations the application stands disposed of finally. No order as to costs.


Member (A)


VICE CHAIRMAN

DATED: JANUARY 19, 1993.
(ug)

T.A. 1308/87

19-1-93

Hon. Mr. Justice U.C. Sivastava, V.C.
Hon. Mr. K. Obayya, A.M.

Heard the learned Counsel
for the parties. Judgment
dictated separately.

A.M.

V.C.