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CENTRAL ADMINISTRATIVE TRIBUNAL ,ALLAHABAD BENCH.

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T.A. No. 1806 of 1986
(W.P. No. 3931 of 1985)

Kanhaiya Lal Applicant.

Versus

Union of India
and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

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

The applicant on mutual exchange was transferred from Delhi to Allahabad in the year 1959 and was posted in the office of Signal and Telecommunication Branch, D.R.M., Allahabad. In the year 1970, he was promoted as Senior Clerk while he was working in Construction Branch. Thereafter, subsequently, he was promoted as Head Clerk in the maintenance department and was thereafter promoted as Assistant Superintendent on 1.6.1979. The present dispute raised by him is that respondent no. 4 namely R.K. Sharma was junior to him in every grade and yet he has been promoted to the post of Superintendent but he was not promoted being senior to him and is also a member of Scheduled Caste community.

2. The respondents have opposed the case of the applicant and have stated that as there were only two posts and as per roster point the applicant was not entitled to be promoted and that is why he has not been promoted. From the facts stated by the parties, it is clear that the said Islam has now been retired

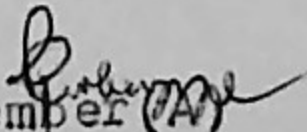
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and both the posts are now available for promotion. There are two posts of Superintendent and as per roster point, the one post is to go to the member of Scheduled Caste community. According to the respondents, this is contrary to what has been laid down in J.C. Malik's case decided by the Allahabad High Court which matter is pending before the Hon'ble Supreme Court in which, it has been directed that till during the pendency of the matter before the Supreme Court, the promotions in the country will be made in accordance with the J.C. Malik's case. It appears that it is a clear case of misinterpretation by the Railway Administration of J.C. Malik's case and in J.C. Malik's case it has not been stated anywhere that if there are two posts, one post will not go ^{to} the member of Scheduled Caste Community.

3. Accordingly, the respondents are directed to consider the case of the applicant also for the promotional post out of these two posts and let it be done without delay, in case he has not been promoted so far. The application is disposed of with the above terms. No order as to costs.


Member (A)


Vice-Chairman

Dated: 20.1.1993

(n.u.)