

(95) (9)

Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.334 of 1987

Smt.Vimla Das & 2 Others .... Applicants

Versus

Union of India & Others .... Respondents

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

Hon.Mr.A.B.Gorthi, Member (A)

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

The applicants in this application have prayed that the order dated 28.2.86 by which respondent No.3 was promoted in Scheduled Tribe Quota be quashed as she is a Christian and as such could not <sup>claim</sup> herself to be Scheduled Tribe. The applicants have prayed that a suitable order or direction may be issued to the respondents to consider and recognise the applicant's status on the promotional post of Nursing Sister in grade Rs.455-700 from the date when the junior respondent was given the benefit of promotional post of Nursing Sister in grade Rs.455-700 by quashing the order dated 28.2.86 which is illegal, void and without jurisdiction. Vide order dated 28.2.86 the respondent No.3 was promoted as Nursing Sister being member of the Scheduled Tribe community as the post fell vacant in that quota. Initially the three applicants filed this application but the application has been pressed only on behalf of applicant No.2, V.N.R.K.Das as the other two applicants have already been promoted. The applicant was appointed as Staff Nurse on 2.6.69 while the respondent No.3 Smt. S.S.Ori Lal was appointed



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as such on 27.4.72. In the seniority list of Staff Nursing Sister the name of the applicant found place above the name of respondent No.3. It appears that on account of the promotion of nine staff from the post of Nursing Sister, 9 posts of Nursing Sisters felt vacant against which promotional benefits to the staff in the category of staff Nurse were to be given with retrospective effect with effect from 1.1.84 and while filling up the nine posts of Nursing Sisters, Scheduled Caste and Scheduled Tribe candidates were also to be considered as per prescribed norms. Taking into consideration of the G.M.(P) N.E. Railway Gorakhpur Circular No.E/50/1/Pt.IV(IV) dated 2.3.85 and the Railway Board's letter No.E(NG)11/83/CL/117 dated 25.1.85 in which reservation for scheduled caste is 15% and for Scheduled Tribe candidate is 7.5%, the respondent No.3 was promoted earlier. The applicant was not promoted which led her to raise grievance against the same and ultimately she approached this Tribunal. During the pendency of the case, the applicant has also been promoted.

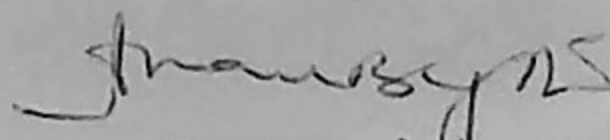
2. The contention on behalf of the applicant is that respondent No.3 is not a member of the Scheduled Tribe and she married a Christian. Even if she has married a Christian, she will not cease to be a member of the Scheduled Tribe notwithstanding that her husband is a Christian. As the applicants have now been promoted, it has been said that the application has become infructuous. So far as the order by which respondent No.3 was promoted, obviously it was given on the ground that one post was to go to the member of the Scheduled Tribe whose quota is 7.5% and

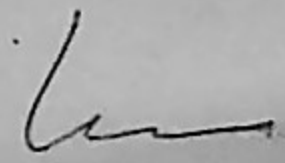


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respondent No.3 being the senior most member of the Scheduled Tribe, was given promotion. The question of seniority and other benefits even after the applicant's seniority is restored will be determined by the Department. We leave this question open to the Railway Administration to decide as to whether the applicant will get notional promotion from the date respondent No.3 was promoted or even after her promotion on a date subsequent to the promotion of respondent No.3. With the above observations, the application is finally disposed of. There will be no order as to costs.

  
Member (A)

  
Vice Chairman

Dated the 16th May, 1991.

RKM