

(A3)

11

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

O.A. No. 423 of 1987.

Dr. Anand Kumar & another Applicants.

Versus

Union of India & others Respondents.

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

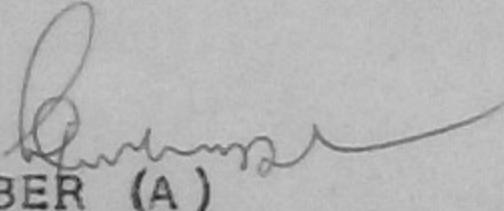
Hon'ble Mr. K. Obayya, A.M.

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

In this application, the applicants have prayed that the respondents be restrained from making appointment of any Scheduled caste/Scheduled Tribe candidate to the upgraded post of Divisional Medical Officer in North Eastern Railway on the basis of reservation policy. The respondents may also be directed to place the applicants in the grade of Divisional Medical Officer on the basis of seniority-cum-suitability subject to rejection of unfit, and the appointments of respondents nos. 4 to 6 made on the basis of reservation policy be set aside and it may be declared that their appointments by promotion to the post of Divisional Medical Officer are invalid.

2. According to the applicants, it is a case of up-gradation and consequently, there was no question of reservation. The applicants have placed reliance on the decision given by the Jodhpur Bench of Central Administrative Tribunal in Dr. A. K. Srivastava case in which it has been held that up-gradation was not a promotion and reservation shall not apply. S.L.P. against the said judgment was also dismissed. After dismissal of SLP against the said judgment, Railway Administration, it appears, considered the case of the applicants and thereafter the applicants were promoted *vide* order dated 12.10.87. They have

produced a copy of such order before us. In case, the applicants were entitled to upgraded post earlier, obviously, the seniority of the applicants shall be fixed over and above those to whom promotions have wrongly been given as has been held by Full Bench of Central Administrative Tribunal which has now been accepted by the Hon'ble Supreme Court and accordingly so far as posting is concerned, the application has become infructuous and the respondents are directed to re-adjudge the seniority of the applicants in case the same has not been done over and above the respondent no.4. It is for the respondents to keep the appointments of the respondents intact or to demote them, in case it affects the promotion of any other person. General observation need not be made in this behalf as the present cases are confined to the applicants also who have now been granted partly relief by the department itself. As proper seniority has not been decided, let it be done within a period of three months from the date of communication of this order. With these observations, the application stands disposed of. No order as to costs.


MEMBER (A)


VICE CHAIRMAN.

DATED : DECEMBER 2, 1992

(ug)