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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 550 of 1988.

Sukh Nandan Prasad Pande Applicant.
Versus
Union of India & others Respondents.

Hon'ble Ajay Johri, A.M.
Hon'ble G.S. Sharma, J.M.

(Delivered by Hon. A. Johri, A.M.)

This is an application received under Section 19 of the Administrative Tribunals Act, 1985. The applicant, Sukh Nandan Prasad Pande, is working as an Office Superintendent (OS), Grade II, in the office of the Principal Technical Schools, Diesel Locomotive Works, Varanasi.

2. By this application the applicant is praying for the fixation of his seniority in the cadre of OS Gr.II. The applicant's case is that he was appointed as a Junior Clerk on 12.4.1957 and thereafter was promoted to the next higher grades of Senior Clerk, Head Clerk and OS Gr.II respectively and ~~when~~ he is due promotion to the post of OS Gr.I now. He claims that in terms of the Railway Board's orders of 20.4.1970 which were further reiterated by the Board's letter of 11.1.1973 reservation to the extent of 15% and 7 1/2% for Scheduled Castes & Scheduled Tribes (SC/ST) respectively was to be made in the post to be filled by promotion. Therefore, if the percentage of reservation has been achieved further promotions to that grade have to be made as if there was no reservation. He has placed reliance on the case of J.C. Malik v. Union of India (1978 (1) SLR 844) where the Railway Board's letter of 20.4.1970 was considered by the Allahabad High Court and in which case it was laid down by the Allahabad High Court that the reservation will be in respect of posts and not vacancies. He has further relied on the Hon'ble Supreme Court's judgment in T.Devadasan v. Union

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of India & others (AIR 1964 SC 179) wherein an observation has been made that in the event the percentage of reservation is deemed to relate to vacancies and not to the post serious consequence would ensue³⁴ resulting in discrimination against the employees not belonging to SC/STs, inasmuch as a stage would come when reservation made will become so excessive that it may practically deny a reasonable opportunity of employment to the members of other communities. Another case on which the applicant has relied is the decision of the Madhya Pradesh High Court in Misc. Writ Petition No. 1583 of 1984 wherein it was held that ~~though~~³⁴ SC/ST candidates, who have been promoted due to reservation quota, having already jumped the que, cannot be permitted to compete with the general candidate for further promotion. They are special class by themselves and they have to go to the reserved quota and if the reserved quota is full they have to wait till the vacancy occurs in the reserved quota. The applicant has further referred to a decision by a Bench of this Tribunal in Registration No. 647 of 1986, Vir Pal Singh Chauhan v. Union of India & others, where the principle laid down in J.C. Malik's case was accepted and it was further held that a person who was junior and got promoted to the next grade on the basis of que breaking by virtue of the special ³⁴provisions made in this regard cannot claim protection of seniority against the erstwhile senior, who was waiting for his chance, but could not be promoted because of the reservation. It was held in this case that the senior should get back his seniority in the new grade to which both now belonged. According to the applicant he was senior to respondents no. 4, 5, 6 and 7. These respondents got promoted to the category of Head Clerk on the basis of reservation and thus got promoted earlier to the applicant and though the applicant was also promoted subsequently his seniority has not been restored and respondents no. 4 to 7 are being shown as senior to him. He has further said that the total strength of the cadre of OS Gr.I being 10 and one post being already occupied by a reserved community candidate on the

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basis of the ratio laid down in J.C. Malik's case no further promotion on reservation basis could be made and, therefore, the promotion of respondent no.4 has been incorrectly made. He has challenged the seniority being given to respondents no. 4 to 7 on the ground that he was not superseded but he had to wait because respondents no. 4 to 7 had broken the que and got promoted on the basis of reservation. The applicant has also referred to another Misc. Writ Petition No. 17115 of 1986 filed in the High Court of Judicature at Allahabad by Surendra Pal and N.C. Pathak against the promotion of respondent no.4 as they were also senior to him. He has, therefore, prayed that he may be declared senior to the respondents no. 4 to 7 in the gradation list of OS Gr.II and suitable directions be given to respondents 1 to 3 to promote him to the cadre of OS Gr.I and respondent no.4 may be reverted from the post of OS Gr.I.

3. Respondents 1 to 3 are Government respondents. In the reply filed by them in this case they have said that respondent no.4 has been promoted as OS Gr.I with effect from 8.10.1986 on regular basis. They have challenged the maintainability of the application on the ground that the application has not been filed against any particular order.³¹ In regard to the claim of the applicant for fixation of his seniority in the cadre of OS Gr.II,³¹ They have said that the seniority list was issued on 26.8.1987 against which the applicant had never represented to the administration and, therefore, the applicant has no prima facie case because not only he did not represent against the seniority list but the matter has also become time barred. According to the respondents the applicant has been promoted in accordance with the relevant rules from grade to grade and his last promotion was to the post of OS Gr.II where he has been assigned regular position with effect³¹ from 1.1.1984. They have said that respondents no. 5 to 7 and one S.G. Srivastava are senior to him in accordance with the seniority list published³¹ on 1.4.1987 and they are awaiting³¹ promotion to the post of OS Gr.I. So, even on this ground

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he is not due promotion. According to the respondents, an appeal being Civil Appeal No. 2017 of 1978 filed by the Union of India against the judgment of the Allahabad High Court in J.C. Malik's case is already under consideration of the Hon'ble Supreme Court. Therefore, they have prayed that the hearing of this case be deferred till the decision on the appeal filed by the Union of India in J.C. Malik's case is decided. They have further said that a SLP has also been filed before the Hon'ble Supreme Court against the judgment of the Madhya Pradesh High Court in Writ Petition No. 1583 of 1984. In regard to the judgment of this Tribunal in O.A. No. 647 of 1986, the respondents have said that in this case also a SLP No. 6468 of 1987 is pending before the Hon'ble Supreme Court. ^{✓ This SLP} It was admitted on 14.10.1987. According to the respondents, this Tribunal's judgment strikes down the existing policy of the Government in regard to the promotion of SC/ST candidates and assignment of their seniority in promoted post. They have said that it is against the existing rules. The respondents have further gone on to say that the reservation and promotion against non-selection post came into effect on 27.11.72. Respondents no. 4 and 5 were promoted as Senior Clerks in 1966. Therefore, there was no question of any reservation quota at that time. When they were promoted to the post of Head Clerk, the reservation had to be applied and, therefore, they were promoted against the reserved points in the 40 points ³ roster and respondent no.4 has been further promoted on the basis of his seniority in the cadre of OS Gr.II against a general vacancy. Thus, the seniority position of the applicant and respondents no. 4 to 7 have been correctly shown as per extent rules. According to the respondents, the sanctioned strength of OS Gr. I in DLW is 13 (10 regular posts and 3 work-charged posts). They have referred to a stay granted by the Allahabad High Court in Akhil Bhartiya Sampradayaika Virodhi Rail Karamchhari Sangh, DLW v. Union of India on 15.5.1985 where reservation to the extent of 15% for SCs and 7 1/2% for STs have to be made in promotions and by applying this percentage one post goes to SC candidates against which one SC employee has already been promoted

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with effect from 1.1.1984. Therefore, there is no other post to be filled against reservation quota. The Government respondents have maintained that the applicant is junior to respondents no. 4 to 7 and the post of OS Gr.I being a non-selection post is to be filled on seniority-cum-suitability basis from amongst OSs Gr.II irrespective of ² whether they belonged to reserved community or general community and as a matter of fact respondent no.4 has been promoted on a regular basis not on account of reservation but on account of his general seniority. Moreover, respondent no.4 was promoted on 7.10.1986 while the present application has been filed before this Tribunal only on 26.4.1988. Therefore, the promotion already made cannot be a subject of the present application. The applicant has been ~~x~~ correctly replied in his representation dated 23.3.1985 in this regard.

4. In his rejoinder affidavit to the reply filed by respondents no. 1 to 3 the applicant has reiterated his earlier claims and has said that respondents no. 5 to 7 who were promoted on ⁵ roster basis against reserved quota have to be assigned the proper seniority in the cadre of Head Clerks as they cannot claim ³⁴ accelerated ~~exhausted~~ promotion to the higher post when the quota is already full. According to him, on a proper assignment of seniority these respondents will stand junior to him and he will become entitled to the promotion to OS Gr. I and the principles laid down in V.P.S. Chauhan's case must be observed in fixing the inter se seniority.

5. Respondent no.5 has said that the promotion to the post of OS Gr.I is from the cadre of OS Gr.II and not from Senior Clerks. He has further said that the reservation is a total of 22 1/2% which is a combined percentage of 15 + 7 1/2% and when a person belonging to the category of SC is not available then the promotion can be made from the category of ST and vice versa. On the basis of 22 1/2% reservation, the reservation comes to 1/4th of the number of posts. This position is further determined by applying the 40 points ³⁴ roster. The total number of posts of OS Gr.I being 13, 3 posts are meant for reserved community candidates, but

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presently there is only one SC candidate, who has been promoted on the basis of reservation. Therefore, two more persons should be promoted solely on reservation account. He has also said that the promotion of respondent no.4 cannot be questioned because this application has been filed after more than a year of the date of his promotion. He has claimed that the seniority list published on 1.4.1987 is perfectly just and correct.

6. On behalf of respondents no. 4, 6 and 7, who have challenged Annexure 'I' to the application as being totally unreliable, the position as brought out by respondent no.5, has been reiterated. It has further been said that respondent no.4 was promoted by an order dated 10.4.1985 in pursuance of an order issued by the Railway Board on 26.2.1985 on the subject of re-structuring of the cadre. They have placed copies of these letters of the Railway Board as Annexures 'CA-1' to 'CA-3'. Thus, according to them, respondent no.4 was promoted under the restructuring order with effect from 1.1.1984 and he was senior to the applicant in the seniority list of OS Gr. II. Since the promotion was made under restructuring, it was not on ad hoc basis.

7. These two replies filed by respondents no. 4 to 7 have been covered by the rejoinder affidavits filed by the applicant, who has maintained that his seniority should have been determined in terms of the decision given in O.A. No. 647/86, when the seniority list was prepared on 1.4.1987. In any case the list of 1.4.1987 was provisional and according to him, it has not yet been finalised. He has further said that in the case of seniority the cause is a reckoning cause and, therefore, if it is found that the seniority has been wrongly fixed, its revision cannot be barred by limitation. He has reiterated that respondents no. 4 to 7, who were promoted on reserved quota in the category of Head Clerk, should not have been assigned the seniority as assigned to them and the same should have been corrected when he got promoted to the post of Head Clerk in 1984. About the exchange of posts between SCs and STs the

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applicant has said that such posts are interchanged between the two communities only after the expiry of three years and not earlier. According to the applicant, the three posts of work-charged OSs Gr.I are temporary posts for specific jobs. They cannot form a part of the cadre. He has further said that the promotion of respondent no.4 has been challenged by him and in terms of decision of the High Courts, Supreme Court and this Tribunal he is entitled to be promoted in preference to respondent no.4.

8. We have heard the learned counsel for the parties. Sri S.D.N. Singh, learned counsel for the applicant, has based his arguments on the decision given by this Tribunal in V.P.S. Chauhan's case. He has relied on paras 31 to 33 of the judgment of this case. According to him, the applicant joined as a Junior Clerk in 1957 while respondents no. 4 to 7 during 1958 to 1976 and even as Senior Clerk the applicant got promoted in September, 1977 while respondents no. 4 to 7 in 1978 and 1979. According to him, it was only when the promotions are made in the category of Head Clerks that the reservation came into play and respondents no. 4 to 7 got posted as Head Clerks against the reserved points on the roster earlier to the applicant. His main emphasis was that when the seniority list of OS Gr. II was prepared as on 1.4.1987, the principles laid down in O.A. No. 647 of 1986 should have been followed and the final list should have been correctly issued. He also emphasised on the point that since the reservation in the cadre is against posts and not vacancies and already the quota is full in the category of OS Gr.I no other reserved community candidate who has broken the queue and sought his promotion on the basis of roster should be promoted on the grounds that he is the senior-most amongst the incumbent eligible for being considered for the post of OS Gr.I. Sri V.K. Burman, learned counsel for the private respondents opposed the submissions made by the learned counsel for the applicant on the ground that an attack on a seniority list published on 1.4.1987 was barred by limitation and that in any case even on the basis of 22 1/2%

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reservation (15% for SC + 7 1/2% for ST) there are two more posts which have to go to the reserved community candidates and they should be promoted in accordance with the directions given by the Allahabad High Court in J.C. Malik's case. He further submitted that the applicant has in any case no locus standi because there is a one more general candidate, viz. S.G. Srivastava, who is senior to the applicant and who has not yet been promoted. He, however, submitted that he did not dispute the findings given in OA No. 647/86 in regard to determination of seniority but according to him if any promotions have been made they should not be disturbed and any adjustment that may become necessary, if they become so necessary, may be done against future vacancies. Nothing else was pressed before us.

9. Respondents no. 1 to 3 have given a very detailed reply and have traced the history of the reservation as adopted by the Government. According to these respondents, the stand of the Government is that once the Government have listed certain castes and tribes as SCs/STs, It follows that the reservation of certain percentage of vacancies to be filled up from time to time would have to be provided, so that they obtained their due share of employment opportunities which come in the shape of available vacancies. Further once inter se seniority of the different groups of employees recruited from different sources to a particular grade such as direct recruits, promotees, SCs & STs, physically handicapped persons and persons recruited on compassionate grounds, on cultural quota are determined with reference to the relevant seniority rules framed by the Government, Further promotion of the employees working in that grade to a higher grade should be based only on the basis of that seniority and that SCs and STs are also entitled to compete for the unreserved vacancies on the basis of such seniority. They have said that in the Resolution No. 42/21/49-NGS, dated 13.9.1950, a specific mention of 12 1/2% of vacancies in the case of SC and 5% of the vacancies in the case of ST has been made. These

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percentages have subsequently been enhanced to 15% and 7 1/2% respectively. According to the respondents this resolution mentions that the reservations have to operate at the stage of recruitment and so it has to be made against the vacancy for which the recruitment has to be carried out. So the Government's policy ³¹⁻¹⁰⁻⁸⁶ /in regard to the reservation ³¹ flows from this concept of vacancies, and not posts. In our opinion this matter is not open for adjudication at the moment. The reservation is only against posts and not vacancies and this matter ³¹ stands presently covered by the Hon'ble Supreme Court's decision in SLP filed in J.C. Malik's case, which reads as follows

"We clarify our order dated February 24, 1984 by directing that the promotions which may be made hereafter will be strictly in accordance with the judgment of the High Court and such promotions will be subject to the result of the appeal. If any promotions have been made after February, 1984 otherwise than in accordance with the judgment of the High Court such promotions shall be adjusted against the further vacancies. CMP is disposed of accordingly."

Such being the situation, we cannot understand how the respondents can take a view against the directions laid down by the Hon'ble Supreme Court. Article 141 of the Constitution lays down that the law declared by the Supreme Court shall be binding on all courts within the territory of India. Therefore, till the Hon'ble Supreme Court takes a final decision in Civil Appeal No. 2017 of 1978, Union of India v. J.C. Malik, the orders passed by the Hon'ble Supreme Court on 24.9.1984 have to be followed.

10. The second point that has been brought out by the respondents is in regard to determination of inter se seniority between direct recruits, promotees, SCs & STs, physically handicapped persons and persons recruited on compassionate grounds, on cultural quota, etc. This argument does not impress us. The promotions given to reserved community candidates, as a result of the application of the roster, when they are allowed to break the queue, put them in an entirely different classification to those of direct recruits,

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promotees, physically handicapped persons, persons recruited on compassionate grounds, etc. it would be incorrect to classify them ^{or except at the time of initial recruitment.} along with such persons. In para 16 of the judgment in O.A. No. 647 of 1986, Vir Pal Singh Chauhan & others v. Union of India & others, the following observations have been made :-

3/ ~~limit~~ "16. The Key note thought in the above citations is that there should be no denial of equality of opportunity as long as the person who complains of discrimination is equally situated with the person or persons who are alleged to have been favoured. We have seen earlier that with the application of the reservation through the roster in promotional posts giving undue advantage the reserved community candidates broke the queue and got a position of promotion in the higher grade by virtue of the reserved point on the roster (Incidentally the application of the roster in promotional posts presently is restricted to the posts and not to vacancies ~~and not to vacancies~~ and if the percentage of reservation is within the prescribed limit application of the roster is not required to be made). Article 16(1) lays down equality of opportunity of employment between members of the same class of employees and not of equality between members of separate, independent class. Once a senior person who was superseded on account of the application of the roster system by an erstwhile junior comes into the same grade in which the erstwhile junior got promoted earlier it cannot be said that he is not equally situated with the person or persons who were promoted earlier and who had been favoured by the reservation and application of the roster. He would very well qualify to be an employee situated similarly and being in the same class of employees he cannot be denied equality. He will not form a separate independent class for this purpose by virtue of his late promotion. But as long as he is not promoted he will definitely be a member of a separate distinct group that is if he is a grade 'C' Guard he cannot put himself on the plea of discrimination into the same position as a 'B' grade Guard if promotions are to be made into 'A' grade."

11. In Janardan v. Union of India (AIR 1983 SC 769) the Hon'ble Supreme Court had observed that it was a well recognised principle of service jurisprudence that any rule of seniority has to

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satisfy the test of equality of opportunity in public service as enshrined in Article 16. It was keeping these factors in view that in para 26 of O.A. No. 647 of 1986 the following observations were made:-

"26. To clarify the position further we will enunciate the principles of determining seniority in situations as are under dispute here. The basis seniority in grade 'C' will be the guiding seniority list for the cadre of guards. Reservations in ,promotions would be made against posts in the grades and not against vacancies. Persons who are promoted by virtue of the application of roster would be given [✓] accelerated promotion but not the seniority. The seniority in a particular grade amongst the incumbants available for promotion to the next grade will be recast each time new incumbants enter from the lower grade on the basis of the initial grade 'C' seniority i.e. a Senior grade 'C' Guard who gets promoted to grade 'B' or from grade 'B' to grade 'A' and so on will find his position amongst the incumbants of the grade on the basis of the original grade 'C' seniority. Such persons as are superseded for any reason other than on account of reservation will be excluded. A person superseded on account of a punishment or unfitness will count his seniority on the revised basis and not on original grade 'C' seniority. The reserved community candidates who are senior not by virtue of reservation but by the position in grade 'C' selections which the grade 'C' seniority list will automatically take care of, will not wait for reservation percentage to be satisfied for their promotion. They will get promoted in their normal turn irrespective of the percentage of reserved community candidates in the higher grade. Others who got promoted as a result of reservation by jumping the queue will wait for their turn. Reservation will again have to be applied on depletion of the reservation quota in the higher grade to make good the shortfalls."

3/ ✓ Thus the reserved community candidates, who form a separate class, their promotion in preference to a senior who has been waiting for the same for a longer time on the basis of the roster will have to be ^{3/ ✓} ~~t~~ampered in accordance with the principle enunciated in V.P.S. Chauhan's case. ^{3/ ✓} ~~On~~ Mere admission of SLP filed by the respondents in the Hon'ble Supreme Court does not ^{3/ ✓} ~~become~~ ^{make the decision} void unless the judgment is either stayed or over-ruled and, therefore, the respondents

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cannot take shelter behind their argument that since they have filed a SLP which has been admitted, the judgment need not be followed or implemented. Thus having laid down that promotion on roster points puts a person in a different classification, ^{3/}and he cannot be covered by the normal seniority rules and erstwhile senior cannot be denied his proper position in a seniority list. It is not the case of the respondents that private respondents no. 4 to 7 were not promoted against roster point and if they had been so promoted their seniority had to be corrected in terms of the ratio laid down in O.A. No. 647 of 1986.

12. In the private respondents' reply it has been said that these promotions to the post of OS Gr.II have been made as a result of restructuring of the cadre in terms of the Railway Board's letter no. PC III/84/UPG/9, dated 16.11.1984, Annexure 'CA-1' to the reply filed by respondents no. 4, 6 and 7. In the case of restructuring of the cadre the reservation does not apply at all. In O.A. No. 414 of 1987, N.K. Saini & others v. The Director General, RDSO & others, this Tribunal had given the following orders :-

"25. On the above considerations we allow this application and direct that the applicants will be considered for being put against these upgraded posts in accordance with the rule - seniority subject to rejection of the unfit - and no reservation will be applicable on these posts. Persons wrongly promoted will stand reverted but no recoveries be made from them for overpayments ^{3/ made} during the period they have officiated. The applicants would be provided proforma fixation with effect from the dates they should have been actually promoted i.e. 1.7.1985. They will not be entitled to any arrears on this account."

3/ In this case the applicants were working as Senior Design Assistants in RDSO and had challenged certain promotions made against the restructured post giving effect to the orders with effect from 1.7.85. They had sought relief of setting aside these orders and for issue of direction to the respondents to make promotion in accordance with the law laid down in O.A. No. 384 of 1986, V.K. Sirothia v. Union of India. In V.K. Sirothia's case it was held that the restructuring

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of the post was done to provide relief in terms of promotional avenues. No additional posts were created. Some posts out of the existing total were placed in higher grades to provide these avenues to the staff who were stagnating. The placement of these posts could not, therefore, be termed as creation of additional posts. It was held that these were definite number of posts and the total remained the same. The only difference being that more posts were in higher grade and that the primary objective will be lost if such redistribution was taken to be a creation of additional posts in the higher grade. Therefore, in any case reservation is not applicable to the restructured post.

13. On the point of limitation there is no doubt that when promotions were made to the category of Head Clerk the applicant did not represent for restoration of his seniority on his promotion as a Head Clerk but once it is found that the determination of seniority was wholly on a wrong footing and it has been so held in O.A. No. 647 of 1986³⁴, The applicant will have a right to seek revision of his seniority if he has lost it on the grounds that he was not inefficient or unsuitable but he had to wait to give way for early promotion to a reserved community candidate on the basis of the roster point. If he was left out because he was unsuitable he will have no claim but if he was left out because there was a provision to give earlier promotion till such time as the Government was satisfied that the representation of such communities is ³⁴not adequate and they are in a position to stand on their own feet for the purpose of competing or capturing jobs on their own strength. Such a promotee cannot ³⁴let ~~his~~ erstwhile senior become his junior ³⁴when ~~though~~ both of them happened ³⁴to be together before they are considered for further promotion from that grade. We, therefore, reject the argument advanced that the applicant could not seek relief on account of the ³⁴grounds ~~that~~ that he has already suffered and he should be restored and given his proper place in the seniority list once he has come at par with his erstwhile junior who got promoted to the higher grade a few years earlier to him.

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14. In J.C. Malik's case, which was decided by the Allahabad High Court in 1978, the Railway Board's letter of 20.4.1970 was considered by the Allahabad High Court and the High Court gave a decision that reservation can only be made in respect of posts and not vacancies. The Allahabad High Court had observed as follows in para 6 of their judgment :

"6. In view of the above discussion, we are of the opinion that the Railway Board's circular letter dated 20th April, 1970 made reservation to the extent of 15% in favour of Scheduled Castes in respect of appointment to the posts and not to be vacancies which may occur in the cadre of posts. Admittedly, respondents nos. 4 to 8 have been selected by the Selection Committee and appointed to the post of A Grade Guards on the basis of an erroneous interpretation of the Railway Board's circular letter. If the circular was correctly followed and if the reservation quota was confined to the posts in that event respondents nos. 4 to 8 could not have been considered or selected for appointment to the posts of A Grade Guards. In our opinion, their selection was not in accordance with law as their selection has been made in excess of the 15% quota fixed for Scheduled Castes candidates."

It was thus the interpretation of the letter issued by the Railway Board on 20.4.1970, which was clarified in this judgment. The respondents should have taken action to issue suitable directions in regard to the Railway Board's circular of 20.4.1970 in 1978, but they have evidently not issued any directions ^{✓ and} as none of them have been brought to our notice in this case. However, the fact that certain promotions were made by them [✓] in 1981 and 1982 in the category of Head Clerk on the basis of roster points and on the basis of letter of 20.4.1970 which ^{✓ according to them} laid down reservation in vacancies even the promotions made of respondents no. 4 to 7 to the category of Head Clerk in 1981 and 1982 would seem to be in opposition to the principles laid down in J.C. Malik's case decided on 9.12.1977. Further the seniority fixed on 1.4.1987 in the category of OS Gr.II on the basis of not only promotions wrongly made in 1981 and 1982

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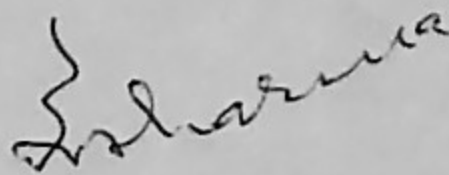
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to the category of Head Clerks but also ignoring the fact of correcting the seniority of the applicant in keeping with the principles laid down by this Tribunal in V.P.S. Chauhan's case^{31/}. It would appear that provisionally the seniority list issued on 1.4.1987 to the category of OS Gr.II is not correct and, therefore, it has to be re-cast keeping in view the various directions issued on the subject.

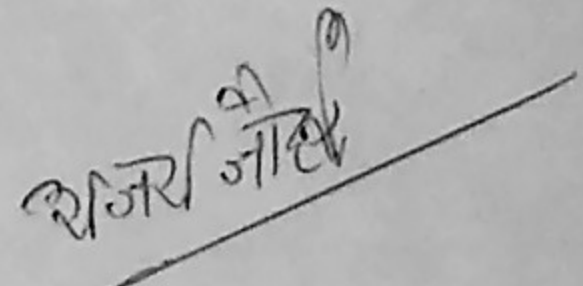
15. On the above considerations we allow this application to the following extent :-

- (a) That the respondents will re-determine the seniority of the applicant in the cadre of OS Gr.II taking in- to consideration the fact that respondents no. 4 to 7 had got their promotions only on the basis of the roster point and their seniority needs to be adjusted in terms of O.A. No. 647 of 1986, V.P.S. Chauhan's case.
- (b) That the applicant will be thereafter considered for promotion on his due turn and according to his eligibility and suitability.
- (c) That any promotions that have already been made will not be disturbed but will be adjusted against future vacancies.

Under the circumstances of the case, we direct the parties to bear their own costs.



MEMBER (J).



MEMBER (A).

Dated: January 11th, 1989.

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