

155

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 17th day of August, 2000

Original Application No. 1937 of 1993

District : Varanasi

CORAM :-

Hon'ble Mr. Rafiquddin, J.M.

Hon'ble Mr. S. Biswas, A.M.

Nikey Lal Son of Late Sri Basant Lal (Ram),
R/o Quarter No. 611F, Diesel Locomotive Workshop,
Varanasi.

(Sri V.K. Srivastava, Advocate)

. Applicant

Versus

1. Union of India, through Secretary,
Ministry of Railway, Rail Bhawan, New Delhi.
2. General Manager (P), Diesel Locomotive
Workshop, Varanasi.
3. General Manager, Diesel Locomotive Workshop,
Varanasi.
4. R.C. Ram, S.D.O. in scale 840-1040.
5. Mata Saran A.S.D.O in scale 700-900.
6. Sati Ram Deputy, S.D.O. in scale 2000-32000.
7. V. Dayal, Head Draftsman in scale 550-750.
Office Superintendent of Drafts G.M. (P)
Office, D.L.W. Varanasi.

(Sri Amit Sthalekar, Advocate)

. . . Respondents

2,

ORDER (Oral)

By Hon'ble Mr. Rafiquddin, J.M.

The applicant in this OA has sought the quashing of the order dated 10-2-1993 contained in Annexure-A-10 to this OA and passed by the General Manager (Personnel), Respondent no.2. By the ^{said} ~~said~~ order, the respondent no.2 has rejected the representation of the applicant for fixation of his seniority. The applicant has also sought revision of his seniority vis-a-vis respondent no.4 to 7 as per principles laid down in the judgement of this Tribunal in OA No.647 of 1986 and OA No.550/1988 and promote him accordingly.

2. The applicant was selected for the post of Tracer in the scale of Rs.110-200 alongwith respondent no.4 vide order dated 11-8-1970. The applicant has been placed at Serial No.2 while respondent no.4 has been placed at Serial No.3 vide panel dated 11-8-1970. The applicant belongs to general category and respondent no.4 belongs to Scheduled Caste. Respondent no.4 was promoted to the post of ^{Asst.} ~~Draftsman~~ against the reserved quota on 19-7-1973 whereas the applicant was promoted to that post vide order dated 29-9-1973 and the applicant being placed before respondent no.4. The seniority list of Draftsman in scale of Rs.1400-2300 dated 16-8-1991, the applicant has been placed below respondent no.4. Similarly, in the seniority list of Head Draftsman, the applicant has been placed below respondent no.4. The case of the applicant is that the seniority of the applicant vis-a-vis respondent no.4 has been wrongly determined which is arbitrary and discriminatory and the representation of the applicant has been dismissed without assigning any reason. The

applicant, therefore, claims that the fixation of seniority of non-reserved employee belonging to the general category vis-a-vis reserved community is contrary to the principles laid down in the order of this Tribunal dated 20-1-1987 in OA No. 647/1986.

3. We have heard counsel for the parties and perused the record carefully.

4. It has been stated by the learned counsel for the respondents that this controversy has been set at rest by the Apex Court in Union of India Vs. Birpal Singh Chauhan (1995) (S&L) 684. This judgement of the Hon'ble Apex Court was passed in Appeal filed by the Union of India against the order of this Tribunal in OA No. 647/1986. The Apex Court has, no doubt, confirmed the order of this Tribunal but it has also been held that while the reserved candidates are entitled to accelerated promotions, they would not be entitled to consequential seniority and the seniority between general and reserved candidates in promotion category would continue to be the same as was at the time of initial appointment in Grade 'C' provided both belong to the same grade and not where the reserved candidates reach next higher grade by virtue of accelerated promotion. Once the total number of reserved post in a cadre is filled up, the roster would become inoperative. The percentage of reservation will be worked in relation to number of posts which form the cadre strength and not in relation to vacancy. However, these principles would be operative from the date of the judgement of Sri R.K. Sabharwal case i.e. 10-2-1995. Since, in the

Rn

present case, the dispute relates prior to 10-2-1995,
period the applicant has no case and the OA deserves to be
dismissed. We, therefore, dismiss the OA with no
order as to costs.

SN
Member (A)

Rafiqul Islam
Member (J)

Dube/