



CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXXXXXXXX~~

O.A. No. 214/ 1989
~~XXXXXX~~

DATE OF DECISION 10.11.1989

SM/ASM'S GENERAL CASTE Petitioner
ASSOCIATION, Western Rly & Ors.

Mr. P. S. Handa Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent

Mr. N. S. Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M. M. Singh .. Administrative Member

The Hon'ble Mr. G. S. Sharma .. Judicial Member

- ✓ 1. Whether Reporters of local papers may be allowed to see the Judgement?
- × 2. To be referred to the Reporter or not?
- × 3. Whether their Lordships wish to see the fair copy of the Judgement?
- × 4. Whether it needs to be circulated to other Benches of the Tribunal?

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1. SM/ASM'S GENERAL CASTE
ASSOCIATION, Western Rly.,

2. A.H. Gujjar

3. M.J. Mehta

C/o. Station Supdt. Office,
Ahmedabad.

.. Applicants

Versus

1. Union of India,
Through,
Ministry of Railway,
Rail Bhavan, New Delhi.

2. General Manager, W.Rly.,
Churchgate, Bombay.

3. Divisional Rly. Manager,
W.Rly., Pratapnagar,
Vadodara.

4. Sr. Divisional Operating Supdt.,
W.Rly., Pratapnagar,
Vadodara.

5. Sr. Divisional Personnel Officer,
W. Rly., Pratapnagar.,
Vadodara.

.. Respondents

CORAM : Hon'ble Mr. M.M. Singh .. Administrative
Member

Hon'ble Mr. G.S. Sharma.. Judicial Member

O.A./214/89

ORAL - ORDER

10.11.1989

Per : Hon'ble Mr. G.S. Sharma .. Judicial Member

SM/ASM's General Caste Association, Western Railway alongwith two of its members, who are working as SM and SS in the Western Railway, have filed this original application under section 19 of the Administrative Tribunals Act, 1985 for a direction to the respondents that they should maintain the per centage of 15% for S.C. employees and 7½% for S.T. employees of the Western Railway in the matter of promotion against the posts and not against vacancies. It is alleged that by passing the orders dated 8.3.1989

19.4.1989 ²passed by the respondent No. 4 promoting to SC/ST candidates the percentage of SC/ST candidates in the grade to which the said promotions were made has crossed the prescribed limits, which is against the decision of the Allahabad High Court's judgment in the case of J.C. Malik v/s. Union of India & Ors. (1978 SLJ 401) and the direction of the Hon'ble Supreme Court in the S.L.P. filed against that judgment as well as ^{against} some orders passed by the Bombay and Jodhpur Benches of the Central Administrative Tribunals.

2. On notices being issued to the respondents, they ^{have} filed a reply and have opposed the admission of this case on the ground that the applicants have no cause of action as the percentage fixed for promotion has not been increased by passing the aforesaid two orders by the respondent No. 4 and the Allahabad High Court's judgment and the judgments of the Bombay and Jodhpur Benches of the Central Administrative Tribunals are not binding on the respondents as they were not parties to the said cases.

3. We have heard the parties' learned counsel and have also carefully examined their contentions made before us and find that this case is fully covered by our decision dt. 3.10.1989 in O.A./526/88 N.K. Patel & Ors. v/s. Union of India & Ors. in which we had issued a direction to the respondents to re-examine the question of promotion of the applicants to the higher posts in the light of the decision of the Allahabad High Court's in the case of J.C. Malik & Ors. v/s. Union of India & Ors. (supra) and the

decision of the Allahabad Bench of the Central Administrative Tribunal in Vir Pal Singh Chauhan & Ors. v/s. Union of India & Ors. (1987(2) ATR 71) and it was clearly held in that case that there is no reservation against vacancies in the matter of promotion and the reservations are to be made only against posts to the extent of the prescribed limits.

4. In view of the limited relief claimed by the applicants in this case, we are not called upon to examine whether the two orders dated 8.3.1989 and 19.4.1989 were rightly passed or not and whether the persons promoted under such orders are to be reverted or not and as the innocuous direction sought by the applicants is that the respondents should maintain the prescribed percentage of the reservation against posts, we need not examine any other matter in this case.

5. We accordingly direct the respondents to follow the decision of the Allahabad High Court in the case of J.C. Malik (supra) and the directions of the Hon'ble Supreme Court in S.L.P. No. 2017 of 1970 as well as the direction of the Allahabad Bench of the Central Administrative Tribunal in the case of Vir Pal Singh (supra) in the matter of reservation for promotion till the said decisions are reviewed, modified or quashed by the Hon'ble Supreme Court.

Finally
The petition is disposed of with the above directions. Parties shall bear their own costs.

M M Singh
(M M Singh)
Administrative Member

S G Sharma
(S G Sharma)
Judicial Member