

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**O.A. NO. 359/89****TXN NO.****DATE OF DECISION 10.8.1994**Shri Upenderbhai R. Buch **Petitioner**Mr. P. H. Pathak **Advocate for the Petitioner (s)****Versus**Union of India & Ors. **Respondent**Mr. B. R. Kyada **Advocate for the Respondent (s)****CORAM****The Hon'ble Mr. N. B. Patel** : Vice Chairman**The Hon'ble Mr. V. Radhakrishnan** : Member (A)**JUDGMENT**

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

No

1. Shri Upenderbhai R. Buch,
3 Ajanta Society,
7 A Patel Colony,
Jamnagar.
2. Association of Railway &
Post Employees,
Through:
Its Executive Committee Member,
Shri Mohan Lakha
having Office at
2 Alap Flats,
Opp. Anjalee Cinema
Ahmedabad.

: Applicants

(Advocate: Mr. P. H. Pathak)

Versus

1. Union of India
Through:
The General Manager,
Western Railway,
Churchgate,
Bombay.
2. Divisional Railway Manager (WR)
Kothi Compound,
Rajkot.
3. Shri R. K. Solanki,
76 Gandhinagar Takra,
Ahmedabad-13.

: Respondents

(Advocate: Mr. B. R. Kyada)

Date: 10.8.1994

ORAL ORDER

in

O.A./359/89

Per: Hon'ble Mr. N. B. Patel

: Vice Chairman

After hearing the matter to some extent and with the consent of the learned advocates, appearing for the applicants and the respondents No. 1 and 2 (Respondent No. 3 being absent though served) we dispose of this O.A. by issuing the following directions:-

- (1) If promotion is given to the Respondent No. 3 to Guard Grade-A Rs. 1350-2200 in excess of the quota reserved for S.C. candidates and

(1)

if the order of promotion is not re-considered by reason of the interim order passed by this Tribunal on 28.4.1989, the order of promotion may be reconsidered in the light of the modification of the interim order made in M.A.177/88 in O.A.241/87 on 28.4.1989 and as directed in the judgment dated 10.8.1993 finally disposing of O.A.241/87.

(2) However, if it is found that the Respondent No.3 was given promotion to the aforesaid post not on the basis of reservation policy but on the basis of his seniority and merit (vis-a-vis not only S.C.candidates but vis-a-vis general candidates also), there will be no modification of the promotion order i.e. reversion of the Respondent No.3 to the lower post.

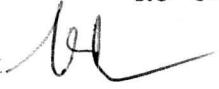
(3) If at present there is increase in the strength of the cadre of Guard Grade-A Rs.1350-2200 and as a consequence thereof there is increase in the number of posts reserved for S.C. candidates on the basis of 15% reservation of the cadre strength and if the respondent No.3 is entitled to be considered against any such additional reserved post, he need not be reverted but he will be adjusted against such additional reserved post. However, in that case, his seniority in the cadre of Guard Grade-A Rs.1350-2200 will count from the date of increase in the strength of the cadre of Guard Grade-A Rs.1350-2200 and consequent increase in the number of posts reserved for S.C. candidates in that cadre.

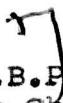
(4) If in pursuance of the aforesaid directions, the Respondent No.3 is required to be reverted on the ground of being in excess of the quota reserved for S.C. candidates in the Guard Grade-A Rs.1350-2200, the eligible general candidate may be promoted to the said post.

(5) Whatever orders are issued pursuant to the aforesaid directions may be issued subject to the orders or decision of the Supreme Court in the appeal against the judgment in Malik's case.

(6) The above directions may be complied with within eight weeks of the date of the receipt of a copy of this order.

No order as to costs.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman

aab

Date	Office Report	ORDER
13/2/95		<p><u>M.A.73/95</u></p> <p>Heard Mr.Pathak and Mr.Kyada. At our suggestion, Mr.Pathak has agreed to the grant of extension of time till 7/3/1995 for complying with the directions of this Tribunal. He only states that the Tribunal may take appropriate contempt proceedings against the respondent No.2, if the decision is not complied with by him within the extended period. Accordingly, the M.A. is allowed and time to comply our decision in O.A.359/89 is finally extended till 7/3/95. We require the respondent No.2 to take note of the fact that we will be constrained to take a serious view in the matter, if the decision is not carried out by the extended period. M.A. stands disposed of accordingly.</p> <p>A copy of this order may be furnished to Mr.Kyada as requested by him.</p> <p>(K.Ramamoorthy) Member (A)</p> <p>(N.B.Patel) Vice Chairman</p> <p>ssh*</p>