

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

NO
Written Test
Promotion

(G)

O.A. No. 62 of 1990
T.A. No. 89

DATE OF DECISION 27-11-1992

Shri S.J. Mehta

Petitioner

Shri B.B. Gogia

Advocate for the Petitioner(s)

Versus

Union of India and Others

Respondent

Shri N.S. Shevde

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan

Vice Chairman.

The Hon'ble Mr. R.C. Bhatt

Member (J)

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 ? ✓

S.J. Mehta

Prēmanand Kavi's Pole
Wadi, Vadodara

Applicant.

Advocate Shri P.S. Handa

Versus

1. Union of India
Secretary
Ministry of Railways
Rail Bhavan New Delhi

2. General Manager
Western Railway
Chruch gate Bombay

3. Divisional Railway Manager
Western Railways
Pratapnagar, Vadodara

4. Sr. Divisional Personnel Officer
Western Railway
Pratapnagar Vadodara

Respondents.

Advocate Shri N.S. Shevde

O R A L J U D G E M E N T

In

O.A. 62 of 1989

Date 27-11-1992.

Per Hon'ble Shri N.V. Krishnan

Vice Chairman.

The applicant is a head clerk working in the
Western Railway under the third respondent .

He is aggrieved because he has not been promoted from the post of Head Clerk as Chief Clerk. It is stated that in respect of promotion to the vacant post of Chief Clerk, the candidates belonging to other communities or castes are not being given promotion but only SC/ST candidates are given ad hoc promotions even though SC/ST candidates have already been given representation in this cadre in excess of the percentage of reservation for them i.e. 15% for SC and 7½% for ST. In this regard he relies on the judgment of the Allahabad High Court in the case of J.C. Malik vs. Union of India and Ors., 1978 SLJ 401 and seeks a direction to the respondents to make promotions by restricting the reservation of SC and ST to 15% and 7½% respectively of the posts and not the vacancies, till the Appeal in the case of Malik referred to above, pending before the Supreme Court is decided.

2. After the O.A. was admitted, an ad interim order was passed as follows:

* Accordingly, it is directed that the promotion if any, made by the railway administration will be subject to the result of this case and if any excess quota is utilised by the railway administration in promoting these candidates, it will have to be adjusted accordingly and it will be subject to the result of the case. Ad interim stay be issued accordingly. "

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3. The case came up for further directions to-day. Shri Shevde for the respondents submitted that it is true that the decision of the Allahabad High Court in Malik's case is pending in Appeal in the Supreme Court. He states that, in the meanwhile, the Head Quarters of Western Railway has issued certain instructions in this behalf, based on the directions issued by the Central Administrative Tribunal in similar case. The directions are contained in the Western Railway Memo No.EP 220/0 dated 26-9-1989 (copy filed by the applicant with MA No.238/89 filed on 15-3-1989) in which it is stated that the interim ^{or dated 28-4-89} orders, of the Ahmedabad Bench of Central Administrative Tribunal, in O.A.No.241/87 (copy enclosed with the orders) are to be implemented. The direction in that interim order dated 28-4-1989 in O.A.No.241/87 was to follow the interim ^{or Bond} orders of the New Bombay, which was to the effect that the percentage of SC/ST in any case, should not exceed 15% and [✓] 7½% of the post.

4. It is also stated that the applicant has since retired from the service and therefore, the question whether the applicant will get any benefit at all will entirely depend upon the ultimate decision of the Supreme Court in the appeal filed against the judgment of the Allahabad High Court in Malik's Case (supra). For this reason we are of the view that it is not necessary to keep this application pending before this Bench and it can be disposed of by suitable directions to which the learned counsel of the parties ~~xxxx~~ do not have any objection.

5. Accordingly, we dispose of this O.A. with the declaration that the final relief, if any, which the applicant may be entitled to in this O.A. will abide by the judgment of the Supreme Court in the appeal filed against the judgment of the Allahabad High Court in Malik's case (Supra), and the benefit, if any, of that judgment shall be given to the applicant, even though he is not a party to that appeal.

6. Rule is made absolute accordingly.

Renu
(R.C. Bhatt)

Member (J)

One
27.11.92

(N.V. Krishnan)
Vice Chairman

*AS