

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. /286/93 with M.A. /322/93
T.A. No.

DATE OF DECISION 29th June, 1993

Mr.K.D.Mishra and others

Petitioner

Mr.B.B.Gogia

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. R.C.Bhatt

: Judicial Member

The Hon'ble Mr.

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? ✗

1. Shri K.D.Mishra,
Aged about 57 years, Occ. : Service,
Add.: Working as T.T.E., under
C.T.I.(S), Western Railway,
Rajkot.
2. Ramesh Chandra Goyal,
Aged about 47 years, Occ.: Service,
Add.: Working as H.T.T.E.,
Western Railway,
Surendranagar.
3. H.R.Dholakia,
Aged about 43 years, Occ.: Service,
Add.: Working as H.T.C.,
Western Railway,
Jamnagar.
4. Dharmesh G.Pandya,
Aged about 33 years, Occ.: Service,
Add.: Working as T.T.E., under
D.C.T.I., Western Railway,
Rajkot.
5. Shri D.T.Rajdev,
Aged about 50 years, Occ.: Service,
Add.: Working as Chief Clerk,
D R M 's office, western Railway,
Rajkot.
6. Shri M.N.Natu,
Aged about 51 years, Occ.: Service,
Add : Working as Chief Clerk,
D R M 's office, Western Railway,
Rajkot.
7. Shri H.D.Oza,
Aged about 35 years, Occ. : Service,
Add. : Working as Head Clerk,
D R M 's office, Western Railway,
Rajkot.
8. Shri Shivrajsinh,
Aged about 35 years, Occ.: Service,
Working as Head Clerk,
D R M 's office, Western Railway,
Rajkot.

9. Shri J.J.Rathod,
Aged about 34 years, Occ.: Service,
Add. : Working as Chief Clerk,
D R M 's office, Western Railway,
Rajkot.

10. Shri P.H.Pandya,
Aged about 48 years, Occ.: Service,
Add. : Working as Office Supdt.,
D R M 's office, Western Railway,
Rajkot.

.....APPLICANTS

Advocate Mr. B. B. Gogia

versus

1. Union of India,
Owning & Representing,
Western Railway, Through
General Manager,
Western Railway,
Churchgate,
Bombay.

2. Divisional Railway Manager,
Western Railway, Kothi Compound,
Rajkot. 360 001

... RESPONDENTS

Advocate Mr.B.R.Kyada.

ORAL JUDGEMENT

O.A./286/93 with

M.A./322/93

Date : 29/6/1993

Per : Hon'ble Shri R.C.Bhatt,
Judicial Member.

Mr.B.B.Gogia, learned advocate

for the applicants. Mr.B.R.Kyada, learned advocate

for the respondents.

2. This application is filed by the 10 applicants serving with the respondents challenging the letter dated 28th April, 1993 of General Manager (E), Churchgate, circulated under Divisional Railway Manager (E), Rajkot's letter dated 4th May, 1993 vide Ann.A/5 and General Manager(E), Churchgate's letter dated 20th May, 1993 circulated by Divisional Railway Manager (E), Rajkot dated 26th May, 1993 vide Ann.A/6. The applicants no.1 to 4 are from Rajkot division working respectively as 1. Train Ticket Examiner, Rajkot
2. Head Train Ticket Examiner, Surendranagar
3. Head Ticket Collector, Jamnagar,
4. Train Ticket Examiner, Rajkot, and these applicants are persons from general category not belonging to the SC/ST. The applicants no. no. 5 to 10 are working in Ministerial cadres on Rajkot division at Rajkot. The applicants have filed this application seeking the following reliefs. :-

A. The respondents may please be directed to not to implement and act upon the letters dated 09.09.1992, 28.4.1993 and 20.5.1993 at Annexures A/4, A/5 and A/6 respectively and may be quashed and may further be directed not to withhold or delay the promotions of the applicants and /or any non SC/ST employees

on account of such letters with further clarification that if any SC/ST candidate is not appointed or promoted in his present cadre on the basis of his overall performance or merit and is promoted only on the basis of reservation such SC/ST employees should not be taken as Senior to the petitioners or general candidates.

B. With prejudice to the above, the respondents may also please be directed not to grant any promotion to SC/ST employees in any cadre in view of the Hon'ble Supreme Court of India decision in Indra Sawhney case reported in 1993 LAB.I.C. ~~¶~~ Page 129.

The applicants have also filed M.A./322/93 for production of documents, which is allowed. M.A. is disposed of.

3. These applicants have common cause of action and hence their application for joining together in one application is granted. This matter came up for admission on 10/6/1993 during the vacation by urgent circulation and the notices were issued to the respondents. Mr.B.R.Kyada, learned advocate, appears for the respondents-.

4. By consent of learned advocates for the parties, this application can be disposed of finally by giving directions. The application is admitted.

5. The case of the applicants as pleaded in the application is that according to the present rules and the procedure, 15 % of posts in the cadre are to be filled in from the SC employees and 7½ % are to be filled in from the ST employees on the basis of 40 point Roster System from 29th April, 1970. The applicants rely on the decision of Allahabad High Court in J.C. Malik and others v/s Union of India and others, the copy of which is produced at Ann.A/2. It is the case of the ~~app~~ applicants that in the said decision the contention of the applicants therein is upheld by the Allahabad High Court that the Railway Board Circular dated 28th April, 1970 did not permit reservation for SC in excess of 15 % for the post of Grade 'A' guards by a circular dated 27th August, 1968 Railway Board fixed 12½ % quota for SC class-(iii) and (iv) post of Railways and this was revised and raised to 15 % by it's circular dated 20.4.1970. The case of the applicants is that the Allahabad High Court came to be conclusion that the reservation of the 15% has been made for appointment to the posts and not to the ~~xx~~ vacancies. It is the case of the applicants that the respondents Railways have filed an appeal to the Hon'ble Supreme Court of India

against the decision in Malik's case., which is admitted by the Hon'ble Supreme Court and is pending for final hearing. The Hon'ble Supreme Court has passed the interim order in that case as under.

" We clarify our order dated 24.2.1984 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 promotions have been made after February ~~22~~ 24, 1984 otherwise than in accordance with the judgement of the High Court, such promotions will be adjusted against the future vacancies. C.M.P. is disposed of accordingly."

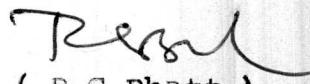
The applicants have averred in ~~his~~ application that various Benches of C.A.T. have also passed interim orders and in some cases final judgement on the basis of the interim order of the Hon'ble Supreme Court of India are delivered. Learned advocate for the applicants submits that the present application also can be disposed of on the same line on which the Hon'ble Supreme Court has passed interim order and also on the same line on which this Bench has followed the Hon'ble Supreme Court's order, which are produced at Ann.A/3 dated 12/4/1993 22/3/1993 and 3/10/1989. Mr.Kyada for the respondents have no objection if this application is

disposed of finally. I have heard the learned advocates and in view of the previous decisions of this Tribunal in similar matters, the copy of which are produced by the applicants at Ann.A/3. I dispose of this application finally as under. :-

6.

ORDER

The parties of this application are directed to abide by the interim orders passed and any ~~interim order~~ ^{any} subsequent of the Hon'ble Supreme Court of India ~~interim~~ ^{any} order that may be passed till final hearing of appeal filed against Malik's case of Allahabad High Court by Railways and they are directed to abide by the ultimate decision of the Hon'ble Supreme Court of India in that matter. The parties in this case are directed to act accordingly. The application is disposed of. No order as to costs.


(R.C.Bhatt)
Judicial Member

SSH

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. 091286/93 with MA/322/4 of 19

Transfer Application No. _____ Old W. Pett. No _____

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided)

Dated : 06/07/93

Countersigned :

Shafiq A/93

RSC
Signature of the Dealing
Assistant

Section Officer/Court officer

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD BENCH

INDEX SHEET

CAUSE TITLE OP/1286/93 with MD/1327/90F 19

NAMES OF THE PARTIES K. D. Misra & Ors.

VERSUS

U of T & O.P.

PART A B & C