

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

O.A.NO. 534/93
AHMEDABAD this the 12th July, 2000

Hon'ble Mr. V.Ramakrishnan, Vice Chairman.
Hon'ble Mr. A.S.Sanghavi, Judicial Member.

1.R.K.Rathod
Head Booking Clerk
Western Railway.
2.R.K.Shastri
3.C.J.Panchal
4.N.J.Dave
5.V.A.Raval
Chief Booking Clerk
Western Railway.

Applicants

Advocate: Mr. M.S.Trivedi

Versus

1. Union of India (through)
The General Manager, Western Railway
Churchgate, Bombay.
2. The Divisional Railway Manager
DRM, Office, Pratapnagar, Baroda

Respondents

Advocate: Mr. N.S.Shevde

Order (Oral)

Per Hon'ble Mr. V.Ramakrishnan, Vice Chairman:

We have heard Mr. Trivedi for the applicant and have gone through the materials on record.

The applicants are Railway servants belonging to the General category and have sought the following reliefs:-

- “(1) that the Hon’ble Tribunal be pleased to Admit this application;
- (2) that the Hon’ble Tribunal be pleased to quash and set aside instructions issued vide letter dt.7.6.93 and 9.6.93 by the respondent authority;
- (3) that the Hon’ble Tribunal further be pleased to direct the respondent authority/its subordinates not to give promotions to SC/ST employees to the higher post of category 1 & 2 over and 15% and 7 ½% respectively fixed for them in accordance with the Mr. J.C.Malik’s case;
- (4) that the Hon’ble Tribunal pleased to declare and direct the authority to consider and promote the applicants to the said higher post as they are eligible for the said promotion with all consequential benefits.
- (5) any other and further reliefs that the Hon’ble Tribunal may deem fit may be given to the applicant.

The applicants submit that a number of additional posts have become available in the higher levels on account of the restructuring orders issued in 1993 by the Railways and that the Railway Administration seek to fill up these additional posts by invoking reservation roster in excess of the prescribed quota of 15% for S.C. and 7 ½% for S.T. in the entire cadre. According to the applicants, the number of persons belonging to reserved categories in position as on the relevant dates exceeds 15% and 7 ½% respectively and they contend that principle laid down in J.D.Malik vs. Union of India (1978) (1) SLR 844- upheld by Supreme Court should be followed. In the pleadings, there is a reference to the decision of the Full Bench of this Tribunal which met in Hyderabad and which laid down certain principles while deciding the case of V.Lakshminarayanan vs. Union of India and Others and


as the decision was rendered on Dt.27.2.92 It is also seen that the matter was considered by another Full Bench which had met in Calcutta which decided OA/854 of 1990 and other connected O.As. of Calcutta Bench and rendered its order on 21.2.94 .


4. Subsequent to filing of this O.A., and the decision of the Full Bench of this Tribunal etc.referred to above, the law on this point has been settled by the decision of the Supreme Court in the case of R.K.Sabharwal & Others vs. State of Punjab & Ors. (1995) 2 SCC 745) which has upheld the principles as enunciated by the Allahabad High Court in J.C.Malik vs. Union of India referred to supra. The Railways in their reply to MA/707 of 1993 they have observed in para 8 that the respondents are maintaining reservation roster at the rate of 15% and 7 ½% for SC/ST respectively on the total number of posts on the cadre as per orders of the Hon'ble Supreme Court.

The issue has been settled by the Hon'ble Supreme Court while disposing of the case of R.K.Sabarwal referred to supra. In the light of this development we direct the respondents to take appropriate action in this case strictly following the principles and law laid down by the Supreme Court in Sabarwal's case referred to supra with regard to reservation.

5. We notice that at one stage, the Railways have indicated that the number of persons belonging to SC/ST is in excess of the prescribed percentage in the cadre but have stated elsewhere that there is no excess on account of restructuring as mentioned in their reply to M.A/707/1993. If the applicant requests to know the actual facts in this regard, the Railways shall communicate the details to them.

6. With the above direction the O.A. is finally disposed of with no orders as to Costs.


(A.S. Sanghavi)
Member (J)


(V. Ramakrishnan)
Vice Chairman

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