

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

O.A 601/1993

Date of Decision : 30.03.2001

Mr. S. K. Khanna & Ors. : Petitioner (s)

Mr. P. H. Pathak : Advocate for the petitioner [s]

Versus

Union of India & Ors. : Respondent(s)

Mr. R. M. Vin : Advocate for the respondent [s]

CORAM :

THE HON'BLE MR. A. S. SANGHVI : MEMBER [J]

THE HON'BLE MR. G. C. SRIVASTAVA : 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? ~

1. S. K. Khanna
2. D. B. Mahajan
3. D. N. Pandya
4. Association of Railway & Post Employees,
through its Vice President
Shri. S. N. Babele
Having its Head Office at
Allap Flats, Opp. Anjalee
Cinema, Vasna Road,
Ahmedabad - 380 007.

- Applicant -

Advocate : Mr. P. H. Pathak

Versus

1. Union of India
Notice to be served through
The Chairman, Rly. Board,
Rail Bhavan, New Delhi.
2. General Manager,
W. Rly., Church gate,
Bombay.
3. Divisional Railway Manager,
W. Rly., Bhavnagarpara,
Bhavnagar.

- Respondent -

Advocate : Mr. R. M. Vin

**JUDGMENT In
O.A 601 of 1993**

Date : 30/03/2001

Per Hon'ble Shri. A. S. Sanghvi : Member [J].

Heard Mr. P. H. Pathak for the applicant and Mr. R. M. Vin for the respondents. This O.A is moved by the Association of the Railways and Posts Employees through its Vice President S. N. Babele and other three applicants seeking directions against the

respondents to follow the order in Mailk's case and instructions at Annexure A/1 strictly and not to give promotion to SC/ST candidates in excess of quota of 15% and 7½ % etc. The grievance of the applicant is that even though the Supreme Court in the case of J. C. Malik has clearly directed that all the promotions will be strictly as per the decision of the Allahabad High Court in Malik's case and that the post held by the scheduled caste and scheduled tribe should not exceed 15 and 7 ½ % respectively at any given point of time, the respondents are not abiding by the decision and even though there is an excess of the representation of SC / ST employees in the category of pay scale of Rs.2375-3500/- and 2000-3200/- in Bhavnagar Division, they are trying to increase the number of posts held by the SC/ST and if the respondents are allowed to implement their decision as per the circular with effect from 1.3.93, only 1% of General Caste candidates will get promotion while 123 posts will be occupied by SC / ST candidates. Another grievance voiced by the applicants is with regard to the clarification issued by the Divisional office on dated 1.10.91 Annexure A/1 wherein some guidelines were issued so far the promotion to the higher grades is concerned. One of the guidelines issued therein is that for considering promotion to higher grade, seniority list should be prepared based on the seniority existing of the base grade and that in case any of the erstwhile junior general candidate in the base grade of the cadre as compared to the SC / ST candidate has come up to the eligibility zone, SC / ST employee is also eligible for further promotion irrespective of the fact whether the reservation of 15% and 7½ % in higher grade has been achieved or not. According to the applicants this clarification by way of guidelines is clearly in

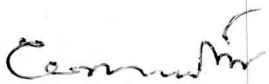
contravention of the decision of the Supreme Court and therefore requires to be struck down.

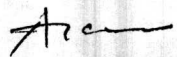
2. Mr. Pathak for the applicant contends that pursuant to the directions of this Tribunal in O.A 71 of 94 and connected O.A's, the Bhavnagar division has not considered these directions and in spite of the judgment of the Supreme Court where clear directions have been given regarding the promotions in cases of the reservation quota, a circular contrary to those directions has been issued by the respondents. According to Mr. Pathak, the Supreme Court's decision in the case of Sabarwal, Virpal Singh Chauhan and Ajit Singh have been ignored by the railway authorities and in spite of the clear directions in these decisions, the authorities have issued circulars for accelerated promotion of SC / ST candidates. He has therefore urged that the respondents be directed to follow the principles laid down in the aforementioned decisions of the Supreme Court and strike down the clarification circular issued by the respondents and direct the respondents not to give promotion to the reserved candidates in excess of the quota of 15% and 7½ % respectively for SC / ST candidates.

3. On the other hand Mr. R. M. Vin for the respondents has mentioned that the directions are in accordance with the Supreme Court judgment and that railway authorities would be abiding by the directions given by the Supreme Court in various judgments.

4. There cannot be any dispute that the question of accelerated promotion on account of roster point has been settled by the various

decisions of the Supreme Court and more particularly in the recent pronouncements of the Supreme Court in the case of Ajit Singh I & Ajit Singh II. The directions given by the respondents by way of guidelines or circulars contrary to the Supreme Court directions will have to be termed as illegal and unenforceable. The question of seniority of persons who have been promoted not only in excess of the roster point but also against the roster point who have got accelerated promotion is to be determined in accordance with Supreme Court's directions in Virpal Singh Chauhan's case and other judgments in force which have been clarified in Ajit Singh referred to above. We have therefore no other alternative but to direct the railway administration not to act upon this circular dated 10.9.91 for filling up the vacancies and to abide by the directions given by the Supreme Court in the case of Virpal Singh Chauhan and Ajit Singh Juneja etc. The respondents are directed to fill up the vacancies in accordance with this direction and also finalise the seniority list in accordance with the law laid down by the Supreme Court and to see that the promotions to the higher level shall be made not on the basis of the circular dated 10.9.91 but on the basis of the directions given by the Supreme Court in the aforementioned decisions. With the above directions the O.A is finally disposed of. No order as to costs.


(G.C. Srivastava)
Member (A)


(A.S. Sanghvi)
Member (J)