

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

**C.P 23 of 2000 In
O.A 558 of 1993**

Date of Decision : 07/12/2000

Shri. Om Prakash Vyas & Ors. : Petitioner (s)

Mr. G. R. Malhotra : Advocate for the petitioner [s]

Versus

The Union of India & Ors. : Respondents [s]

Mr. N. S. Shevde : Advocate for the respondent [s]

CORAM :

THE HON'BLE MR. V. RAMAKRISHNAN : VICE CHAIRMAN

THE HON'BLE MR. A. S. SANGHAVI : MEMBER (J)

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. Om Prakash Vyas,
2. M. S. Towari
3. G. P. Sharma
4. J. S. Vyas
5. U. R. Buch

Working as Passenger Guard under
SS/Ahmedabad.

- Applicants -

Advocate : Mr.G. R. Malhotra

Versus

1. Shri. V. D. Gupta / his successor
General Manager, W. Rly.,
Headquarter Office,
Church gate, Mumbai 400 020.
2. Smt. Sneh Bijlani / her successor,
Divisional Railway Manager,
Divisional Railway Manager Office,
Kothi Compound, Rajkot.

- Respondents -

Advocate : Mr. N. S. Shevde

**ORAL ORDER
C.P. 23 of 2000
IN
O.A 558 of 1993**

Date : 1.12.2000

Per Hon'ble Shri. V. Ramakrishnan : Vice Chairman.

We have heard Mr. Malhotra for the complainant and Mr. Shevde for the respondents. The complainant has alleged non-compliance of the Tribunal's direction dated 17.9.99 in O.A. 558 of 1993. That O.A was filed by 16 applicants who are Passenger Guards and who belonged to the General Community. They had then challenged the promotion of a large number of SC / ST candidates against upgraded


posts and contended that the number of SC / ST candidates in the higher cadre is already in excess of the prescribed percentage of 15 % and 7 1/2 % and thus roster point could not have been operated. The Tribunal after hearing both sides and taking note of the law laid down by the Hon'ble Supreme Court in such matters in series of judgments such as Sabarwal, Virpal Singh Chauhan etc. had directed the respondents to prepare a revised seniority list so as to conform to the directions of the Supreme Court and assign to the applicants therein their due position in such lists and this exercise was to be completed within two months from the date of receipt of a copy of the order.

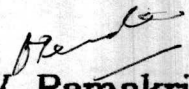
2. Mr. Malhotra says that even after lapse of considerable time which has gone beyond the extended time given by the Tribunal, the respondents have still not finalised the list and that they should be directed to do so and give promotion only on the basis of revised list.

3. Mr. Shevde says that the issue involved is complex and certain directions of the Railway Board have been received recently, the preparation of the seniority list is under process in Rajkot Division and in respect of some other cadres, they have been published. So far as the Guards cadre is concerned, to which the complainants belong, such revised seniority list will be published within one month from now. After disposal of the objections to the list, the same will be finalised soon thereafter. We record the averment of Mr. Shevde.

4. In the light of the position brought out now, we dispose of the present C.P. by directing the respondents to finalise the revised seniority list in accordance with the directions of the Supreme Court in the case of Sabarwal, Virpal Singh Chauhan, Ajit Singh IInd etc., as expeditiously as possible and in any case not later than two months from the date of receipt of a copy of this order.

5. With the above directions the Contempt Petition stands disposed of. Notice discharged.


(A. S. Sanghavi)
Member (J)


(V. Ramakrishnan)
Vice Chairman

Mb

FORM NO. 21
(See Rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH
CA/TA/RA/CE/ 23 of 2000 M.O.A/558/93

M/s Omprakash Vyas APPLICANT (S)

VERSUS

Union of India RESPONDENT (S)

I N D E X - S H E E T

SR.NO.	DESCRIPTION OF DOCUMENTS	PAGE
1	CP-	1 to 27
2	Reply	28 to 30
3	Order dated 7/12/2000	(4 pages)

Documents file in 'C' part - 1 to 3

Certified that the file is complete in all aspect

py
Signature of S.O. (J)

Ah 01/3
Signature of Dealing
Hand

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

CAT/JUDICIAL SECTION

SUBMITTED:-

Original Petition No. OA/ of _____

Miscellaneous Petition No. - of _____

Mr Om Prakash Vyas Petitioner(s)

Versus

Mr V.D. Gupta Respondent(s)

This application has been submitted to the Tribunal by Shri G.K. Malhotra Under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the Check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the Check list. The applicant advocate may be asked to rectify the same within 14 days/ draft letter is placed below for signatures.

Assistant

SUBMITTED:-

Section Officer (J)

Dy. Registrar (J)

CAT/JUDICIAL SECTION

28/4

28/4/2014

20/4/2014

Petitioner(s)

Respondent(s)

This application has been submitted to the Tribunal by Shri _____ Under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the Check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the Check list. The applicant advocate may be asked to rectify the same within 14 days/ draft letter is placed below for signatures.

Assistant

CAT/JUDICIAL SECTION

FORM NO. 3
(See Rule 11)

CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD BENCH , AHMEDABAD

CP/51/22/200
Dairy No 499

C.P. (Civil/Criminal) 23/ 499-200

Between

Mr. Om Prakash Vya Petitioner(s)

By

Mr. G.R. Mahesh
~~Mr. V.D. Gupta~~
(Name of the counsel, if any)

And

Mr. V.D. Gupta Respondent(s)

By

(Name of the counsel, if any)

Subject : Contempt (No. 1) Department: WRD (No. 2)

REPORT OF THE SCRUTINY OF CONTEMPT OF COURT PETITION (CIVIL/CRIMINAL)

1. Whether the name (including as far as possible, the name of father/mother/husband), age, occupation and address of the petitioner(s) and the respondent(s) are given ?

Note : Where respondent is an officer, his name, designation and office address alone are enough.

2. Whether the parties impleaded as petitioner(s) and respondent(s) are proper ?

Note : In case of Civil Contempt for disobeying the order of the Tribunal, it is the party in whose favour the direction is issued that can be impleaded as petitioner and the party against whom the direction is issued can be impleaded as the respondent.

(b) In case of Criminal Contempt, the party who is alleged to have committed contempt that can be impleaded as respondent.

3. Nature of the Contempt (Civil or Criminal) and the provisions of the Act invoked ?

4. (a) Date of alleged Contempt:
(b) Date of filing of the Contempt Petition:
(c) Whether the petition is barred by limitation under Section 20 of the Contempt of Court Act, 1971 ?

17-9-99
18/11/200
Riv

- 5 (a) Whether the grounds and material facts constituting the alleged contempt are given ? *ym*
- (b) Whether the grounds and facts alleged in the petition are divided into paragraphs and numbered. *ym*
- (c) Whether the petition is accompanied by supporting documents or certified/photostat (attested) copies of the original thereof ? *ym*
- (d) If the petitioner relies upon any other document(s) in his possession, whether copy of such document(s) is/are filed along with the petition ? *ym*
- (e) Whether the petition and its annexures have been filed in a paper-book form and duly indexed and paginated ? *ym*
- (f) Whether three complete sets of the paper-books have been filed ? *ym*
- (g) Whether equal number of extra copies of paper-books have been filed in case there are more respondents than one ? *ym*

6. Whether the nature of the order sought from the Tribunal is stated ? *ym*
7. Whether the petition is supported by an affidavit sworn to by the petitioner verifying the facts relied upon ? *ym*

Note : No affidavit is required if the motion is by Attorney General/Solicitor General/Additional Solicitor General. *ym*

8. Whether the petitioner or his Advocate have signed the petition indicating the place and date ? *ym*
9. In case of Civil Contempt whether the petition is accompanied by a Certified copy of the judgment/decree/order writ undertaking alleged to have been disobeyed by the alleged contemner ? *ym*

10. (a) In case of Criminal Contempt, not covered by Section 1 * of the Contempt of Courts Act, whether the petitioner has produced General/Solicitor General/Additional Solicitor General ?

- (b) If a note whether the petition contains the reasons thereof ? *ym*

11. Whether the petitioner had previously made a contempt petition on the same facts ? If so have the following been furnished : *ym M.B*

- (a) Number of the Petition *No*

12. (b) Whether the petition is pending ? *ym*

- (c) If disposed of, nature/result of the disposal with date:

12. Whether the draft charges are enclosed in a separate sheet ? *ym*

* Contempt committed in the presence of or hearing of the member (s) -

FOR ATTENTION :

Orders on the administrative side have to be obtained from the Chairman/Vice Chairman or Member designated in case of action for criminal contempt, as required by Rule 7 (11) before placing for preliminary hearing.

28
28/11

Section Officer

[Signature]

Deputy Registrar

[Signature]

Registrar

FOR ATTENTION :

Orders on the administrative side have to be obtained from the Chairman/Vice Chairman or Member designated in case of action for criminal contempt, as required by Rule 7 (11) before placing for preliminary hearing.

Page 1 of 1
Learned Advocate for Petitioners
who signed set & ...
copies copy ...
other side

B. Shrivastava

18/4/2000 Dy. Registrar C.A.T.M.
for Ahmedabad Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

CPST/22/2000 CPST/22/2000
CONTEMPT APPL NO. 23 OF 2000

in

O.A. No. 558/1993

1 Mr Om Prakash Vyas

& Others

.....

Petitioners.

V/S

Shri V.D. Gupta/his successor
General Manager, W. Rly.

Smt Sneh Bijlani/her successor
DRM Rajkot.

.....

Contemners.

I_n_d_e_x

S.No.	Annexures.	Particulars	Page Nos.
1.		Memo of Petition.	1 to 8
2.	'A'	Copy of the order dated 17.9.99 passed by Hon'ble Tribunal in O.A. No. 558/93	9 to 14
3.	'B'	Copy of the DRM BRC Circular Dt. 14.3.1991.	15
4.	'C'	Copy of the Railway Board letter No.90-E(SCT) 1/49/12 dt. 18.11.1999	16 to 17
5.	'D'	Copy of DFO Northern Rly Jodhpur letter dated 29.12.1999	18 to 21
6.	'E'	Copy of the Advocate's Notice dt 16.3.2000 with acknowledgement receipts.	22 to 26
7.	--'F'--	Draft Charges.	27

(G.R. Malhotra)
Advocate for the petitioners.

Ahmedabad.
Dt. 10.4.2000.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

CONTEMPT PETITION NO. 23 OF 2000

in

O.A. No. 558/1993

1. Mr Om Prakash Vyas
& Others.

C/O: SS/Ahmedabad.

.....c

Petitioner

V/S

Union of India & Others

1. Shri V.D. Gupta/his successor
General Manager,
Western Railway,
Headquarter office,
Churchgate, Mumbai 400 020.

2. Smt. Sneh Bijlani/her successor,
Divisional Railway Manager,
Divisional Railway Manager OFFICE,
Kothi Compound

Rajkot.

.....

Contemners

The petitioners most respectfully submit as
under :

1. The petitioners filed O.A. No. 558/93 in the
Hon'ble Tribunal Bench at Ahmedabad for quashing and
setting aside the impugned order issued vide Memorandum
No. ET/839/12/1 dated 18-6-93 at Annexure 'A' and
also impugned order dated 23.7.93 at Annexure 'A'1

of the said application, and with further direction to implement the ~~st~~ restructuring order as per the Railway Board order dated 16.6.1992 at Annexure A/2 where the percentage of SC/ST employees is not to exceed 15 % and 7.5 % respectively as per order of the Hon'ble Supreme Court judgement.

2. The Hon'ble Tribunal, Ahmedabad disposed of the O.A. No. 558/93 vide its order dated 17.9.1999 after hearing both the counsels and directed the respondents Railway to prepare a revised Seniority List in conformity with the direction of Supreme Court and assign to the applicants their due position ~~in such~~ in such list in accordance with rules within 2 months from the date of receipt of copy of this order, and a copy of the said order is marked hereto as Annexure 'A'.

3. On perusal of the said order the Hon'ble Tribunal has pointed out the Hon'ble Supreme Courts Judgement laying down the Law on the subject in the case of Sabarwal & Others and subsequently which was followed in number of cases by reversing the direction of full bench the respondents have implemented the directions and orders of Supreme Court in such matters in keeping view the case of Jr J.C. Malik which is clearly applicable to Railway Employees.

4. It is also pointed out now the Law is clearly

settled by the Supreme Court the percentage of SC & ST candidates shall not exceed 15 % and 7.5 % respectively in any cadre or in each grade and also it has been further clarified that no reservation exist in the case of cadre restructuring for which your attention is drawn to the GM(E)CCG's letter No. EP/220/0 dt. 21.2.1991 circulated by DRM BRC letter dated 14.3.1991 and accordingly the DRM Baroda has implemented the said policy by giving proforma position to the senior persons only vis-a-vis their juniors against the upgraded posts w.e.f. 1.1.1984 and therefore the present applicants were deprived of their legal position as well as their legal right for promotion due to upgradation as the junior to the applicants were given promotion due to upgradation as it is settled by the various benches of Hon'ble Tribunals especially by the Jodhpur Bench and also it is observed by Allahabad Bench of Central Administrative Tribunal in O.A. No. 384/1984 which reads as under :

"The restructuring of posts was done to provide relief in terms of promotional avenues. No additional posts are created. Some posts out of existing total were placed in higher grades to provide these

avenues to the staff who were stagnating -----
there were definite number of posts and the total remained
the same. The only difference was that some of these
posts were in a higher grade. It was deliberate exercise
of re-distribution with the primary object of betterment
of change of promotion and removal of stagnation.

" Further upgradation of cadre by redistribution
of posts will loose its primary objective if it is taken
on perceptive of additional posts in the upgraded posts
which it rightly is not. There has to be a rationality
in the implementation of directions and instructions. The
criteria has to be formulated keeping the aims and safe-
guards in view. The key-note thought behind the exercise
should not be lost sight of . It is to improve prospects
remove stagnation and provide avenues . The very purpose
it defeated if the end result is anything else."

In keeping the above observations the Baroda
Division has implemented the order dated 14.3.1991 - a
copy of which is marked as Annexure 'B' for kind perusa;.

5. Your kind attention is drawn to the Government
of India, Ministry of Railways, special messenger-Most Urgent
Court Matter issued under circular No. 90-E(SCT)1/49/12

dated 18.11.1999 addressed to General Manager (P) Northern Railway, New Delhi and accordingly para 6 of the said letter is very important for your kind perusal wherein the Railway Board has pressed upon the General Manager concerned to take immediate action for implementation of CAT's judgement dt. 9.2.1999 to avoid contempt and copy of the said letter is marked hereto as Annexure 'C'.

6. The petitioners submit in pursuant to the implementation to the Hon'ble Supreme Courts Judgement ~~E~~ DPO Jodhpur vide his letter No. 847/E/EIC/GO C"/Seniority 99/29 dated 29.12.1999 has revised the seniority list in pursuant to the order passed by the Hon'ble CAT, Jodhpur as well as confirmation of judgement by the Hon'ble Supreme Court vide its order dated 19.11.1998 and on perusal of the said letter the Guards have been given proper seniority by updating their promotion and seniority accordingly as shown therein and consequently promotions thereof, whereas the Guards belonging to SC/ST community have been given revised promotion in their respective grades in 82 instead of 81 and whereas Guards of General Category have been given their revised promotion in the year 1981 instead of 1982 and some guards have been given promotion ~~promotions~~ by advancing their promotional dates from 1983

... 6 ...

to 1981, 1984 to 1982, 1986 to 1984 as the case may be and so on and copy of the DPO letter dt. 29.12.1999 is marked hereto as Annexure 'D' for kind perusal of the as well as implementation of the Hon'ble CAT's order dated 17.9.1999 by finalising the seniority list while assigning proper seniority to the applicants with revised date of promotion on the basis of restructuring of cadre/upgradation of posts by quashing the order dated 18.6.93 at Annexure A/1 of the OA No. 558/93 for which you are requested to go through the application in this regard on the subject matter.

7. The petitioners submit that a Legal Notice was sent through Advocate's Notice dated 16.3.2000 under Registered AD after waiting for about 6 months from the date of order dated 17.9.1999 with a request to implement the Hon'ble Tribunal Order for preparing a revised seniority list by assigning the applicants their due position in the matter of seniority as well as with a due date of promotion against the upgraded posts vis-a-vis their juniors belonging to SC/ST candidates and copy of the said notice is marked hereto as Annexure ~~XXX~~ 'E' for compliance of the Hon'ble Tribunal Order within one month.

... 7 ...

8. The petitioners submit that inspite of the Hon'ble Tribunal Order dt. 17.9.1999 and the Advocate's Notice dated 16.3.~~XXXX~~ 2000 sent under Registered ^{Contemners} AD, ~~XXXX~~ have not cared to implement the Hon'ble Tribunal order dated 17.9.1999 and more than 6 months have passed . It is also respectfully pointed out the present contemners have neither taken a serious note of this Hon'ble Tribunal order nor the Advocate's Notice dt. 16.3.2000 and it is clear that the the present co temners have wilfully flouted the Hon'ble Tribunal's Order dt. 17.9.1999 and wilfully disobeyed the said order punishable under Contempt of Court Act, 1971. Even the delay in implementing the Hon'ble Tribunal Order beyond the period prescribed by Hon'ble Tribunal amounts to contempt of the said order of this Tribunal punishable under the Contempt of Court Act, 1971.

9. In view of above facts and circumstances and other submissions that may be made during the hearing the petitioners pray and therefore this Hon'ble Tribunal be pleased to :

(a) allow this petition in the interest of justice to uphold the dignity of the judicial forum;

(b) hold and declare that the contemners are liable

..8..

to be suitably punished for not implementing the Hon'ble Tribunal order dt. 17.9.99 and therefore be punished suitably with a view to set example to the similar minded people under Contempt of Court Act, 1971 and with further direction to award exemplary cost recoverable from the Officer concerned on whole account inordinate delay is caused in implementing the Hon'ble Tribunal order as the contemners have not still prepared the revised seniority list with their respective assignment of their positions accordingly in keeping view the Law laid down by Supreme Court,

(c) to pass any other order that may be deemed fit, proper and just in the interest of justice,

Ahmedabad

Dated: 10.4.2000

____ Applicants *with 50000/-
com 19.10.1999*
Com. 19.10.1999
G.R. Malhotra (U.R. Bhat)
J. S. Vyas

A F F I D A V I T

I, Omprakash Vyas Aged 54 years one of the petitioners do hereby solemnly affirm and state that what is stated above is true to the best of my knowledge and belief based on official documents as well as legal submissions. I further state that I have not suppressed any material facts within my knowledge and annexures are the true copies of original documents.

SOLEMNLY AFFIRMED on TENTH day of APRIL 2000 at AHMEDABAD

before me.

G. R. Malhotra
G.R. Malhotra, Advocate.

DEPONENT

Omprakash Vyas
(com 19.10.1999)

PKH
A' 9
CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.558/93

DATE OF DECISION : 17.9.99

Mr.Om Prakash Vyas & ors : Petitioner [s]

Mr.P.K.Handa : Advocate for the petitioner [s]

Versus

Union of India Respondent (s)

Mr.N.S.Shevde Advocate for the Respondent (s)

CORAM

THE HON'BLE MR. V.RAMAKRISHNAN : VICE CHAIRMAN

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

1. Om Prakash Vyas,
 2. M.S.Towari
 3. G.P.Sharma
 4. J.S.Vyas
 5. U.R.Buch
- working as passenger guard under
SS/Ahmedabad.

Applicants

Advocate Mr.P.K.Handa

Versus

1. Union of India, Through :
General Manager,
Western Railway,
Churchgate,
Bombay.
2. Divisional Railway Manager [E],
Western Railway,
Kothi Compound,
Rajkot.
3. Sr.Divisional Optg. Manager,
W.Rly. Kothi Compound,
Rajkot,
4. Shri M.P.Rawat, Passenger Gurd,
c/o Station Supdt., Rly. Station,
Mahesana.
5. Shri M.R.Vasava, Passenger Guard,
c/o, Station Supdt.,
Kalupur, Ahmedabad.

6. Shri N.K.Siddhi, Passenger Guard,
c/o Station Supdt.,
Rly. Station, Rajkot.,
7. B.R.Ramteke, Passenger Guard,
c/o Station Supdt., Rly. Station,
Hapa.
8. Shri D.V.Chavada, Passenger Guard,
c/o, Station Supdt., Rly. Station,
Kalupur, Ahmedabad.
9. Shri D.G.Govinda, Passenger Guard,
c/o Station Supdt., Rly. Station,
Rajkot.,
10. P.A.Makwana, Passenger Guard,
c/o Station Supdt. Rly. Station,
Kalupur, Ahmedabad.
11. Shri H.V.Vala, Passenger Guard,
c/o Station Supdt. Rly. Station,
Surendranagar.
12. K.A.Makwana, Passenger Guard,
c/o Station Supdt, Rly. Station,
Kalupur, Ahmedabad.
13. J.B.Patel, Passenger Guard,
c/o Station Supdt., Rly. Station,
Mahesana.
14. Chensingh Malvi, Passenger Guard,
c/o Station Supdt. Rly. Station,
Mahesana.
15. Rajelal Koli, Passenger Guard,
c/o Station Supdt., Rly. Station,
Vijapur.

16. R.K. Soalnki, Passenger Guard,
c/o Station Supdt.,
Rly. Station, Kapulur,
Ahmedabad.

Respondents

Advocate Mr. N. S. Shevde

ORDER [oral] In
O.A. NO. 558/93

Dt. 17.9.99

Per **Hon'ble Mr. V. Ramakrishnan** Vice Chairman

We have heard Mr. Handa for the applicant and Mr. Shvede for the respondents, and have also gone through the material on record.

2. The applicants who are Passenger Guards, have challenged the order dated 18.6.93 [Annexure A/1] which up graded a number of posts and promoting a large number of SC/ST candidates against such posts. The Railway Board letter dated 16.6.92 had referred to the interim directions of the Full Bench of the Tribunal which met at Hyderabad to consider O.A. 759/87 and a batch of 94 other cases and took certain views. A copy of the



Railway Board's letter is annexed as at Annexure A/2. The Full Bench of the CAT took the final view that reservation would be related ^{to} on the number of vacancies in the recruitment and not to the total number of sanctioned posts in the cadre. This was given ~~no~~ effect in the order dated 18.6.93 and it is challenged in the present O.A.

2. The Tribunal initially by its order dated 28.9.93 issued the interim directions restraining promoting SC/ST candidates to the grade of 1400-2600 from the grade of 1350-2200 in pursuance of the letter Annexure A dated 18.6.93 and Annexure A/1 dated 23.7.93 respectively in excess of 15% and 7 1/2 % of SC/ST candidates respectively of the total strength of the cadre. Subsequently, following the decision of the Full Bench in O.A.854/90 and other connected cases of Calcutta Bench and for the reasons mentioned in the order dated 17.5.94 in O.A.514/93 and other matters, the interim relief was vacated by the Tribunal by its order dated 17.5.94.

3. Mr. Handa submits that subsequent of the filing of the O.A. a number of developments have

been taken place and the Hon'ble Supreme Court has laid down the law on the ^{Subject} ~~submissions~~ in the case of Sabarwal & ors. which was followed in a number of cases and which had reversed the directions of the Full Bench. The respondents have implemented the directions of the Supreme Court in such matters.

4. Mr. Handa however, says that in the light of the directions of the Supreme Court in the case of Sabarwal & ors it is necessary for the Railways to prepare a revised seniority list. The Railways shall prepare a revised seniority list in conformity with the directions of the Supreme Court and assign to the applicants their due position in such lists in accordance with the rules within 2 months from the date of receipt of a copy of this order.

14

14/10/55

Prepared by:

12/10/55

Compared by:

12/10/55

True Copy

5. With the above observations, the O.A. stands disposed of accordingly. No costs.

14/10/55

[A.S. Sanghavi]

Member [J]

[V. Ramakrishnan]

Vice Chairman

Central Adm. Bldg.

S. Solanki

Ahmedabad

14/10/55

Dated: 14.3.1991.

No. 2/220/0

All Officers & C.S. Estt. Branch
C/- SC/ST Association, WREU/WRMS.-BRC.Sub: Reservation order for SC/ST employees-
Supreme Court Interim Order dtd. 21.12.1984.

Ref: GM(E)CCG's No. EP/220/0 dtd. 21.2.1991.

Copy of above ~~quoted~~ letter is sent herewith
for information, guidance and n/action.

DA: One as above.

Sd/-

FOR DDM (E)BRC.

Copy of GM(E)CCG's letter No. EP/220/0 dtd. 21.12/1991
addressed to all concerned.

Sub : Same as above.

Ref: This office Circular No. EP/220/0
dtd. 19.3.1990.

One of the recognised union represented that while circulating Boards orders for promotion under restructuring maintaining the percentage of 15% and 7/2 SC and ST respectively of the cadre only, were circulated without giving any instructions as to what should be done where promotions of SC/ST employees are already given before the receipt of interim orders of Supreme Court i.e. whether SC/ST employees promoted in excess be reverted and allowances be recovered from them.

2. On account of ~~late~~ late receipt of Supreme Court interim orders, many senior eligible general employees could not be promoted, whereas Junior/SC/ST employees got promoted. This resulted in the loss of senior general employees. Since the SC/ST employees who got promoted in excess of their percentage cannot be reverted but have to be adjusted against future vacancies and also no amount can be recovered from them. However, to make good loss of affected senior general employees following instructions are issued.

(i) those SC/ST employees who were promoted w.e.f. 1.1.1984 in excess of their prescribed percentage i.e. 15% SC and 7/2 ST in contravention to the Board's instructions envisaged in their letter No. 85-E(SCT)49/2 dated. 26.2.1985 circulated under GM(E)CCG's letter No. E(SCT)220/15 (i Court Case) dated. 12.3.1985 (PS No. 71/85) are to be adjusted against the future vacancies and no recovery are to be made from them.

(ii) The senior persons who should not be promoted against upgraded post w.e.f. 1.1.1984 may be given proforma position only vis-a-vis their juniors, who have been promoted after 12.3.1985 actual payment at the enhanced rate be made from the date of physically should during of responsibility.

(3. This issues with the approval of competent authority.

Encl: As above.

....2/-

Free Gf
Cm

A e 16

SPECIAL MESSENGER
MOST URGENT
COURT MATTER

Government of India
Ministry of Railways
(Railway Board)

No 90-E(SCT)1/49/12

Rail Bhavan, New Delhi
Dated 18.11.1999

To,

The General Manager(P),
Northern Railway,
Baroda House,
New Delhi.

Sub : 1. Contempt Petition No. 304 of 1999 in CA No.1481/96 filed by All India Non SC/ST Employees Association Vs. Shri V.K. Aggarwal, CRB & Others and;
2. Shri C.M. Singh Vs U.O.I. CA No.9149/95(SLP No.5233/94 & OA No.590/89).

Ref : GM(P)'s letter No.39-SC-SLP-93-LCP dated 17.11.1999.

Kindly refer to Railway's letter quoted above vide which Railway has desired to have the directions on the CA No.9149 of 1995 of Shri C.M. Singh Vs UOI through the GM/Northern Railway, New Delhi, arising out of SLP NO.5233 of 1994 of Shri C.M. Singh. This Civil Appeal has been admitted in the Hon'ble Supreme Court against the CAT/Jodhpur order and subsequent decision of 23.11.1993 on the basis of miscellaneous application/review petition filed by one of the Respondents. The sequence of events shows that Shri C.M. Singh filed the OA No.590 of 1989 in CAT/Jodhpur praying for certain reliefs. The Tribunal decided on 9.2.1990 that to restore the original seniority of the applicants in the cadre to which they were initially recruited with all subsequent benefit, there shall be no order as to cost. Being agrieved against this decision the SLP No.12020/91 was filed and same was dismissed by Hon'ble Supreme Court on 19.7.1999 on the grounds that there is no sufficient grounds to condone the delay.

2. In fact even the copy of SLP No.12020/91 filed in the Hon'ble Supreme Court was not sent to the Board.

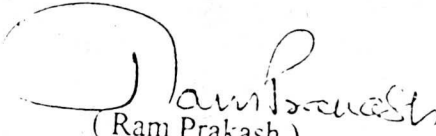
---2/-

3. Subsequently the CAT's decision of 02.1990 was again challenged in CAT by Shri Manohar Lal and others and as a result of MIA/RA vide of Shri Manohar Lal CAT reviewed their earlier decision of 02.1990 and reversed the same on 21.11.1993. This was also not advised to the Board.

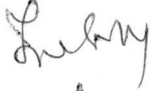
4. Being aggrieved Shri C.M. Singh filed the SLP No.5233 of 1994 in Hon'ble Supreme Court against the CAT/Jodhpur decision of 23.11.1993. This fact that Shri C.M. Singh has filed SLP in Hon'ble Supreme Court has also not been advised to the Board and Board as such was totally unaware of this development. The Central Agency Section's records also shows that in this SLP no counter reply has been filed by the Zonal Railway Administration for the reasons best known to the Railway administration.

This sequence of events shows that matter has not been dealt with properly by the Zonal Divisional Administration, due to which all these problems have arisen. Even CAT/Jodhpur in their judgement dated 09.02.1990 has recorded "neither the applicant nor the respondent has produced any Government's circulars/orders or the Department to show as to how promotions were made as contended by the learned counsel. Since all the concerned persons were lifted to higher pay scale, question of promotion does not arise. Therefore, this need not entail any revision of seniority with reference to Roster Point". This observation of the CAT speaks, how properly the case was briefed to the Advocate defending the Railways' position.

6. In the face of above there is no option but to comply with the CAT order dated 09.02.1990 between the parties otherwise this will tantamount to contempt and disrespect to the judicial pronouncement. Therefore, immediate action may be taken for implementation of CAT's judgement dated 09.02.1990 or in case Railway feels that something more is required to be done which has not been carried out in pursuance of the CAT's decision dated 09.02.1990 same may be carried out and Board may be advised as CAT judgement dated 09.02.1990 became final between the two parties. Action taken in this regard may kindly be advised to this office.


(Ram Prakash)
Executive Director (Reservation)
Railway Board

18.11.99


Cm

Dated 29/12/1999

18

Station Supdt/Station Master - JU, BGKT, SMR, MTD & DNA.

Subject : Implementation of Hon'ble Supreme Court Judgement dated 19.11.98 passed in CA No. 9149/95 (SLP No. 5233/94 & OA No. 590/89) C M Singh & 34 others V/s U.O.I. and others.

Refere. : 1) Rly Bd's letter No. 90E(SCT)1/49/12 Dt. 18.11.99.
2) GM(P)/NR/NDLS letter No. 39-SF-SLP-93-LCP dated 30.11.1999.

---000--

Rly Board vide letter under reference at No. 1 has directed to implement the order of Hon'ble Supreme Court passed in CA No. 9149/95 (SLP No. 5233/94 & OA No. 590/89) C M Singh & 34 others V/S U.O.I. & others.

In pursuance of above direction of Rly Board received from HQrs. Office vide letter dated 30.11.99 and as per direction's given by Hon'ble CAT/JU on 09.02.90 in OA No. 590/89 C M Singh & 34 others V/S U.O.I. & others, the revised seniority list of Goods Guard Grade 1200-2040/4500-7000 (RSRP) has been prepared and enclosed herewith for information of all concerned. All the seniority list of Goods Guard Grade 1200-2040/4500-7000 (RSRP) issued earlier so far may be treated as cancelled.

As a consequential benefits, the benefit of accelerated promotion extended to the SC/ST (Guard "C" Grade 330-530) in Grade 330-560 as Guard "B" w.e.f. 01.06.81 in the context of cadre restructuring effective from 01.06.81 vide this office letter No. 456E/PID/Guard/Promotion dated 15/24.03.82 are hereby withdrawn and are allowed the benefit of promotion in Grade 330-560 as Guard "B" from the revised dates shown against each as under :-

Sno.	Name & Design. Station	Existing date of promotion in Gr. Rs. 330-560 as Guard "B"	Revised date of promotion in Grade Rs. 330-560 as Guard "B"
01.	Shri Ram Babu (SC)	01.06.81	31.07.82
02.	Shri Ajai Kumar (SC)	01.06.81	31.07.82
03.	Shri Pane Sarren (ST)	01.06.81	31.07.82
04.	Shri Kashi Ram (SC)	01.06.81	31.07.82
05.	Shri Samuel Khakha (ST)	01.06.81	17.09.82
06.	Shri Ashok Kumar (SC)	01.06.81	16.02.83
07.	Shri Jokhan Prasad (SC)	01.06.81	19.07.83
08.	Shri Phool Singh (SC)	01.06.81	01.01.84
09.	Shri Manohar Lal (SC)	01.06.81	01.01.84
10.	Shri Surja Ram (SC)	01.06.81	01.01.84
11.	Shri Laxman Ram (SC)	01.06.81	01.01.84
12.	Shri Dinanath Khalko (ST)	01.06.81	01.01.84

18

As a result of above the following senior most Guard "C" Grade 330-530 out of applicants are extended the benefit of promotion in Grade 330-560 as Guard "B" w.e.f. 01.06.81 & onward in the place of aforesaid SC/ST staff as under :-

Sno.	Name & Design. Station	Existing date of promotion in Gr. Rs. 330-560 as Guard "B"	Revised date of promotion in Grade Rs. 330-560 as Guard "B"
01.	Shri Jai Narayan Sen (Retd on 31.03.91)	31.07.82	01.06.81
02.	Shri Chaman Lal (Retd on 30.06.97)	01.08.82	01.06.81
03.	Shri Kishan Singh (Retd on 30.06.93)	05.08.82	01.06.81
04.	Shri Rameshwar Sharma (Retd on 29.02.96)	05.08.82	01.06.81
05.	Shri Banna Ram (Retd on 31.05.90)	06.08.82	01.06.81
06.	Shri Kishan Lal (Retd on 31.01.94)	05.08.82	01.06.81
07.	Shri Bal Veer Chand	17.09.82	01.06.81
08.	Shri Benzamin Desoza (Retd on 31.10.94)	17.09.82	01.06.81
09.	Shri Jagdish Chandra Yadav	16.12.83	01.06.81
10.	Shri Rajendra Singh Yadav	01.01.84	01.06.81
11.	Shri Shanti Prasad Kalla	01.01.84	01.06.81
12.	Shri Ram Avtar Sharma	01.01.84	01.06.81
13.	Shri Chhagan Lal Kansara	01.01.84	01.06.81
14.	Shri Ambika Pd Giri	01.01.84	31.07.82
15.	Shri Tola Ram	01.01.84	31.07.82
16.	Shri C M Singh	01.01.84	31.07.82
17.	Shri Gajendra Singh Sisodia	01.01.84	31.07.82
18.	Shri Ladu Singh	01.01.84	17.09.82
19.	Shri Prem Singh Parihar	01.01.84	16.02.83
20.	Shri Kanhiya Lal	01.01.84	19.07.83
21.	Shri Kan Singh	01.01.84	01.01.84
22.	Shri K N Joshi	01.01.84	01.01.84
23.	Shri Kalyan Singh	01.01.84	01.01.84
24.	Shri Dayal Prakash	07.05.86	01.01.84
25.	Shri Banshi Lal	07.05.86	01.01.84
26.	Shri Mangal Singh	07.05.86	01.01.84
27.	Shri Mool Bharti	07.05.86	01.01.84
28.	Shri Rajendra Suleja	07.05.86	01.01.84
29.	Shri Ram Lal Rainwa	07.05.86	01.01.84
30.	Shri Gordhan Lal	07.05.86	01.01.84
31.	Shri Jagdeo Kumar Goyal	07.05.86	01.01.84
32.	Shri Jugal Kishore	07.05.86	01.01.84
33.	Shri Jagdish Lal Sharma Son of Shri Bhura Ram	07.05.86	01.01.84
34.	Shri Jagdish Narain	07.05.86	01.01.84

20

As a result of change in seniority and promotion dates as mentioned above, the following senior most Guard out of applicants are promoted as Mail Guard Grade 1400-2600/5500-9000 with immediate effect.

- 01 Shri Chhagan Lal Kansara
- 02 Shri C M Singh
- 03 Shri Gajendra Singh Sisodia
- 04 Shri Ladu Singh
- 05 Shri Prem Singh Parihar
- 06 Shri Kailash Narain Joshi
- 07 Shri Rajendra Singh Yadav
- 08 Shri Mangal Singh
- 09 Shri Rajendra Suleja
- 10 Shri Ram Lal Renwa
- 11 Shri Jagdeo Kumar Goyal

The promotion orders of following SC/ST candidates as Guard "A" Grade 425-600 are revised as under :-

Sno.	Name of Employee	Pre. Promotion date.	Revised Promotion date.
01	Shri Pane Sorren(ST)		
02	Shri Sameul Khakha (ST)	15.06.82	16.02.84
03	Shri Ram Babu (SC)	19.07.83	01.08.84
		15.06.82	01.12.90

The promotion dates of following SC/ST candidates as Mail Guard Grade 1400-2600/5500-9000 are revised as under :-

Sno.	Name of Employee	Pre. Promotion date.	Revised Promotion date.
01	Shri Pane Sorren(ST)		
02	Shri Samuel Khakha (ST)	13.01.95	with immediate effect
03	Shri Ram Babu (SC)	15.06.95	-do-
		06.05.94	-do-

Due to revise seniority position and promotion dates, the following SC/ST employees working as Mail Guard Grade 1400-2600/5500-9000 are put to work as Senior Passenger Guard Grade 1400-2600/5500-9000 on adhoc basis till further orders, the seniority position only will be as per substantive seniority.

1. Shri Ajai Kumar (SC)
2. Shri Kashi Ram (SC)
3. Shri Ashok Kumar (SC)
4. Shri Jokhan Prasad (SC)
5. Shri Phool Singh (SC)
6. Shri Manohar Lal (SC)
7. Shri Surja Ram (SC)
8. Shri Laxman Ram (SC)
9. Shri Banwari Lal (SC)
10. Shri Dina Nath Khalko (ST)
11. Shri M K Meena (ST)
12. Shri Hari Bhajan Meena (ST)
13. Shri Mangi Lal Parmar (SC)
14. Shri Radhey Shyam Meena (ST)

21

The SC/ST candidates who have been promoted over and above the required percentage by application of rule of reservation will be treated as adhoc on supernumerary post in the grade in which they are working, till further orders.

The fixation of pay on promotion of concerned employees will be done on receipt of option for fixation in terms of PSNo. 7937 and 9832, which must be sent to this office within one month from the date of issue of this letter.

All concerned be informed accordingly. This issues with approval of competent authority.

31-11
for Divl Personnel Officer,
N. Rly., Jodhpur.

Copy to : The GM(P), N.Rly., HQrs. Office, Baroda House,
New Delhi. in reference to the letter No.
39-SC/SLP-93-LCP dated 30.11.99.

CLA(P)/Ju, DAO/Ju, Sr DOM/Ju, DOM/Ju, DSO/Ju
AOM/G, AOM/M, OS/Bills, ACME, OS/Optg.
CWLI/Ju, CWMI/Ju & CHC/Ju
Divl Secy/NRMU & URMU
Shri C M Singh Guard and all other 34 applicants.
Master File.

Suley
Anz

Am E

22

Tel. No. 7507351

From: G.R. Kalhotra,
Advocate,
K2 27 Adarshnagar Society,
'D' Cabin, Sabarmati,
Ahmedabad 380 019.

Dated: 11.3.2000

REGISTERED AD/
PERSONAL DELIVERY

To:
Shri V.D. Gupta/his successor,
General Manager,
Western Railway, Headquarter Office,
Churchgate,
Mumbai 400 020.

Smt. Sneh Bijlani/her successor
Divisional Railway Manager,
DRM Office, Moti Compound,
Rajkot.

Dear Sir/Madam,

Under instructions and on behalf of my clients
Shri Omprakash Vyas and Others working as Passenger
Guards under SE Ahmedabad (MG), I hereby address you
as under by way of this Notice.

1. That my clients filed O.A. No. 558/93 in the
Hon'ble Tribunal bench at Ahmedabad for quashing and
setting aside the impugned order issued vide Memoran-
dum No. ET/839/12/1 dated 18.6.93 and also impugned
order dt. 23.7.1993 which are shown at Annexure A and A/1
of the said application and with further direction
to implement the restructuring order as per the
directions of the Railway Board dated 16.6.1992 at
Annexure A/2 where the percentage of SC & ST employees
is not to exceed 15 % and 7.5 % respectively as per

.2.

the Hon'ble Supreme Court Judgment.

2. The Hon'ble Tribunal, Ahmedabad disposed of the O.A. No. 558/93 vide its order dt. 17.9.1999 after hearing both the Counsels by directing the railway and the respondents herein to prepare revised seniority list in conforming with the direction of Supreme Court and assign to the applicants there due position in such list in accordance with the rules within 2 months from the date of receipt of a copy of this Order. It also pointed out that the Hon'ble Supreme Court has laid down the Law on the subject in the case of Sabarwal & Others and in subsequent which was followed in number of cases by reversing the direction of the full bench the respondents have implemented the directions of Supreme Court in such matters keeping in view J.C. Malik case. Copy of the order dated 17.9.99 is enclosed herewith for kind perusal and the said order was required to be implemented within 2 months from the receipt of copy of this order and on perusal of this order the copy of the order was ready on 12.10.99 which must have been received by your honour latest by 1st November 1999.

3. It is respectfully pointed out that Northern Railway has implemented the order of Supreme Court

and in this connection your attention is drawn to the letter No. 847E/EIC/CD"C"/Seniority/99/29 dated 29.12.99 issued by Divisional Personnel Officer, Northern Railway, Jodhpur in which the Divisional Manager Office, Jodhpur has revised the promotional date of SC/ST candidates from 81 to 82 in the case of Goods Guards and General Candidates, Grade 'B' promotions have been upgraded from 82 to 81 as shown therein on the basis of cadre restructuring as a result of Supreme Court Orders and consequently the Mail/Express Guards, General Category have been made senior to the SC/ST candidates by pointing out revised promotion dates to 84 and 90 instead of earlier dates and thus SC/ST employees working as Mail/Express Guards scale Rs. 1400-2600/5500-9000 are put to work as Senior Passenger Guards Grade 1400-2600/5500-9000 on adhoc basis till further orders and as such it is clear there has been deliberate delay by the Western Railway in implementing the Hon'ble Supreme Court Judgement resulting into great undue hardship and loss of seniority and promotions accompanied with loss of recurring financial losses on account of excess percentage exceeding 15 % and 7.5 % in the case of SC/ST candidates. Copy of the letter issued by DPO Northern Rly, Jodhpur dt.29.12.99 is enclosed for your kind perusal so as to revise the seniority and list and promotional date accordingly.

4. I, therefore draw attention to the O.A. No. 588 of 93 which is available in your office and the said O.A. may kindly be carefully gone through and perused for implementation of the law laid down by the Supreme Court in Sabarwal Case keeping in view the J.C. Malik case on the basis of which the Baroda Division has issued a circular dt. 14.3.1991 and copy of the said circular is enclosed for your kind perusal so that the percentage of SC/ST candidates does not in any case exceed 15 % and 7.5 % accordingly and the said circular was implemented by Baroda Division on 14.3.91 whereas your Division has not cared to implement the Hon'ble Supreme Court's judgement based on J.C. Malik and Sabarwal's case. Now it has been settled Law that the reservations for SC/ST candidates shall not exceed 15 % and 7.5 % in any case.

5. It is pointed out that you have not made any sincere efforts to comply with this Hon'ble Tribunal order dt. 17.9.99 and also have not published the seniority list as per law laid down by the Supreme Court as pointed out in foregoing paras and more than 5 months have passed since the disposal of the O.A. No. 558/93 on 17.9.99. In view of the above there is no intention on your part to implement the said order which amounts to wilful disobedience of this Hon'ble

Tribunal order dt. 17.9.99 punishable under the Court of Contempt Act 1971.

6. In view of above facts and circumstances I hereby call upon you by this Notice to implement the Hon'ble Tribunal Order dt. 17.9.1999 by quashing the order No. ET/839/12/1 dt. ~~XXXX~~ 18.6.1993 and 23.7.93 respectively and implement the restructuring order as per the direction of Railway Board letter dated 16.6.92 shown at Annexure A/2 wherein the percentage of SC and ST employees is not to exceed 15 % and 7.5 % respectively as per Hon'ble Supreme Court Judgement. and consequently applicants be assigned with proper seniority with due promotions by revising the promotional dates of the SC/ST candidates as well as the promotional dates of the Guards of General categories as has been done in the case of Jodhpur Division ~~xxxx~~ within 1 month from the date of receipt of this notice failing which a contempt application will be filed against you at your risk and cost which may please be noted.

Yours faithfully,

(G.R. Malhotra)
Advocate.

Encl. 1
1. O.A. 558/93

2. O.A. 914/93

3. D.M. 24 (14.6.92) / C.O. / C.O. / Seniority / R/R

4. D.M. B.A. 10/92 / C.O. / 12/92 - 14.7.91

Signature
(G.R. Malhotra)
Advocate

Signature
Gm

~~Luby~~

CP/23/2003

AF

29

DRAFT CHARGES

Mr Om Prakash Vyas & Others ... Petitioners.

V/S

Shri V.D. Gupta/his successor
General Manager, Western Railway
Mumbai

Shri Sneh Bijlani/her successor,
Divl Railway Manager, W Rly,
Rajkot, ...

Contemners.

Central Administrative Tribunal, Ahmedabad hereby charges
above Contemners/Respondents as under :

The Respondents/Contemners have wilfully disobeyed
the order dated 17.9.99 passed in O.A. No. 558/93 by the
Hon'ble Bench, Ahmedabad by not implementing the said order
as the contemners have not prepared a revised seniority list
in confirmity with the direction of Supreme Court by
assigning to the applicants their due position in such list
in accordance with rules within 2 months from the date of
receipt of copy of order.

The contemners ~~are~~ have not still taken any action
in pursuant to the said order of this Hon'ble tribunal as
well as Advocate's Notice dt. 16.3.2000 and as such the
contemners have committed a contempt of Hon'ble Tribunal's
order punishable under Contempt of Court Act 1971.

Signature of Hon'ble Member.

The charges were read and explained to the alleged
Contemners and plea recorded :

1. Do you plead guilty to the charges ?

Ans.

2. Do you have anything to say.

Ans.

Signature of the alleged contemners.

Ganesh

ON THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

C.P. NO.23 OF 2000

IN

O. A. NO.558 OF 1993

Om Prakash Vyas & Ors..... ... Applicants

v/s

Union of India & Rs..... ... Respondents

AFFIDAVIT IN REPLY
ON BEHALF OF RESPONDENTS

I, Smt.Sneh Bijalani, age about 54 years, residing at Railway Bungalow, Western Railway, Rajkot, do hereby state on solemn affirmation as under:-

1. That at present I am serving as Divisional Railway Manager, Western Railway, Rajkot. I am respondent No.2 in this contempt petition. I am therefore, filing this affidavit in reply.

2. Regarding paras 1, 2 & 3 of the contempt petition the respondents rely on judgement date d 17.9.99 in O.A.NO.558/93 for the purpose of directions issued by the Hon'ble Tribunal.

14/5/2000

File in
COT
19/9/2000

3. Contents of paras 4 & 5 are not fully true and are not ~~and~~ admitted. The averments are not admitted. It is not admitted that reservation does not apply to upstaged posts. The letter dated 14.2.91 (Annexure B) is not applicable to the facts of the case. The applicant has not produced page No.2 of the said letter. The letter dated 18.11.99 (Annexure C) has been issued by the Railway Board to the General Manager(P), Northern Railway, New Delhi in reference to a contempt petition and is applicable to the facts of the said case. It is submitted that policy and instructions are regarded to not exceeding 15% & 7.1/2% respectively for SC/ST employees is not applicable to the facts of the present case in view of the orders regarding cut off date viz.10.2.95 for maintaining seniority position of staff promoted prior to 10.2.95. In view of the select list prepared on the basis of seniority keeping in view provision of cut off date, the staff including SC/ST had to be promoted even when the restructuring exceeded 15% & 7.1/2% respectively. In view of the above there is no intention to commit contempt of the Hon'ble Tribunal in any manner.

: 3 :

4. Contents of para 6 are not fully true and are not admitted. The letter dated 29.12.99 has been issued in connection with the implementation of orders in O.A.NO.590/89, etc., by Jodhpur Division. The said letter has been issued in the light of facts of the said case. The said letter cannot be applied to the facts of the present case.. In view of the averments made in para 3 above no action was required to be taken by Rajkot Division similar to one taken by Jodhpur Division .

5. Regarding Paras 7 & 8 of the contempt petition, it is submitted that the Rajkot Division has to implement the orders issued by the Railway Board from time to time. It is submitted that policy instructions are issued by the Railway Board. The present case also involves policy matters in implementation of the judgement of the Hon'ble Tribunal in O.A.NO.558/943 dated 17.9.99. It is submitted that instructions/guidelines regarding implementation of such judgements are ~~not~~ awaited from the Railway Board. It is submitted that it was not possible for the administration to implement the orders of the Hon'ble Tribunal without approval of the

Railway Board as no authority to take decision on such policy issues is delegated at the Divisional level.

6. It is submitted that the respondents had filed an application praying for extension of six months time and the said application has been disposed of by the Hon'ble Tribunal., extending time for compliance of judgement..

7. It is submitted that the respondents have no committed contempt of the Hon'ble Tribunal. The respondents have no intention whatsoever to disobey or flout the orders of the Hon'ble Tribunal in any manner whatsoever. It is submitted that action is always taken to implement the orders. The respondents have high regards to the Hon'ble Tribunal and there is no wilful disobedience by the respondents. It is submitted that instructions/guidelines from Railway Board on the policy matter regarding implementation of the directions of the Hon'ble Tribunal are awaited from the Railway Board and on receipt of such guidelines from the Railway Board further action can be taken by the Divisional Office, Rajkot. The matter is still under process and no final decision has been taken by the Divisional Office, Rajkot, to issue promotion orders

50

: 5 :

contrary to the judgment of the Hon'ble Tribunal
after the same was received by the respondent No.2.

8. The applicant is not entitled to any
of the reliefs claimed in para 9 of the application.

In view of what is stated above,
~~isxx~~ the contempt petition may be dismissed with
costs and notice discharged.

What is stated above is true to my
knowledge & information received from the record
of the case and I believe the same to be true.

Rajkot.

Dated: 8.9.2000


CSMT, SMEH BIALALI

8/9.2000

SA Vafkum

M.M. Mehta

©: R. 448605

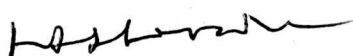
Manish M. Mehta

(ADVOCATE)

Railnagar-3, Block No-4,

Jamnagar Road, RAJKOT

Filed 14.9.2000



Adv for Resp