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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.200 of 1989.

Date of Decision:- 16th.May,1991.

P.R.N.Rao & Ors. ... Applicants.

Versus,

Union of India & Ors. ... Respondents.

For the Applicants: Mr.C.V.Murty,C.M.K,Murty,
Mr.S.Rath,Advocates.

For the Respondents:- Mr.B.Pal,
Senior Counsel(Railway).

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C O R A M :-

THE HON'BLE MR.B.R.PATEL,VICE-CHAIRMAN.

&

THE HON'BLE MR.N.SENGUPTA, MEMBER (JUDICIAL) .

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1. Whether reports of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporters or not ? *No* .
3. Whether Their Lordships wish to see the fair copy of the Judgment ?

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J u d g m e n t .

Mr.N.SENGUPTA, MEMBER (J).

This is an application by 20 persons seeking a direction to the respondents to confine the promotion to the posts of 'A' Special-Mail & Express guards from Passenger Guards in the reservation of Sch.Caste and Sch.Tribe candidates within 22.5 percent of the posts at any^{given} point of time and to declare that the 40 per cent Roster system is arbitrary, illegal, unjust and violative of Articles 14 and 16 of the Constitution of India. They have also prayed for a further direction to Respondent No.1 to 3 for promoting them to the rank of 'A' Special-Mail & Express Guards on merit without reference to the 40 point Roster system .

2. The facts pleaded by the applicants are that they are working as passenger Guard in the Khurda Division of the South Eastern Railways and Respondent No.4 to 7 are working as 'A' Special-Mail & Express Guards, they being members of Sch. Caste and Sch.Tribe Communities. The total number of posts of 'A' Special-Mail and Express Guard in the Division is 23, therefore, only 6 posts can be kept reserved for the persons belonging to Sch. Caste and Sch.Tribe but there are 10 such persons who are working as 'A' Special-Mail & Express Guards. It is further alleged that Respondent No.7

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whose name was at Serial No.22 in the Seniority list of passenger gurads, was promoted in ^{preference} ~~performance~~ to some of the applicants whose names appear against Sl.Nos.10,12,13,14,16 i.e. those who are senior to Respondent No.7. Some others who were placed similarly at a dis-advantage in the matter of promotion had moved the Hyderabad Bench of this Tribunal by filing O.A.No.630/88 and in that interim order~~s~~ was passed by that bench of this Tribunal. After that Chief Personal Officer, S.E. Railway, Garden Reach, issued a circular letter annexing the copy of Railway Board's letter dtd.6.9.88 which stated that there ~~is~~ reservation quota for the Sch.Caste and Sch.Tribe should be worked out on the basis of numbers~~d~~ of posts in the grade and not on the number of vacancies which arise from time to time. That Circular further enjoins that no posts reserved according to the Roster ^{- Register to -} ~~Roster~~ ^{who} remain unfilled and the roster register should be maintained according to extant of orders. This circular has prejudiced ~~on~~ the rights of the applicant ^{- that is -} ~~i.e.~~ why they have approached this Tribunal seeking the relief ~~at~~ ^{above-} mentioned.

3. Though no counter has been filed on behalf of the Railway Administration, yet Mr.B.Pal, appearing ^{- for -} ~~in~~ the Rly.Administration has contended

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that the maintenance of a roster register is imperative and the maintenance of such a register is necessary to see that proper number of posts are reserved for the Sch.Caste and Sch.Tribe candidates. He has further contended that the idea of reservation is ^{- to afford opportunity -} ~~adequate number~~ to those who were previously handi-capped for social and economic reasons and to achieve this process, the roster register has been prescribed. In ^{substance} ~~substance~~, the contention of Mr.Pal is that the promotions are to be made according to roster register and the identification of the reservation points should be made on the basis of the vacancies available at a particular point of time.

4. We have heard Mr.C.V.Murty for the applicants and Mr.B.Pal for the Respondents. Mr.C.V. Murty has ^{- sought -} ~~short~~ reliance on a recent decision of this bench of the Tribunal in O.A.387 of 1988. That case also related to promotion and reservation, it was filed by ^{- Goods -} ~~Express~~ Guards. In para-5 of the Judgment delivered in that case i.e.O.A.387 of 1988 we have referred to a previous decision of this bench in T.A.77/87 and also to the orders passed by the Allahabad High Court and the Hon'ble Supreme Court. We also stated in that Judgment that we were in agreement with the ratio of the decision

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of the Madhya Pradesh High Court in the case of G.C.Jain and Ors.-Versus- Divisional Rly.Manager, Central Railway, reported in 1986(I) SLR, 588. We find no reason to ^{differ} ~~disbelieve~~ or deviate ^{from} ~~more~~ what ~~we~~ stated in O.A.387/88. Therefore, we would repeat that the reservation of posts for Sch.Caste and Sch.Tribe Candidates has to be confined to 15 per cent and 7½ per cent making of a total of 22½ per cent of the total number of posts and further that at no point of time the reservation would exceed this percentage. If the roster points satisfied ~~thi~~se conditions, they would ^{- be -} ~~valid~~ otherwise not and the roster register is to be maintained accordingly.

5. Mr.Murty has made a submission that the Railway Administration is not taking into account the ~~xxx~~ leave reserve posts for determining the number of posts available to the general category for promotion. There is no pleading in this regard but however as found in number of other services, the cadre strength of a particular service also includes ~~leave~~ and deputation reserves posts. If the cadre strength of the Guards include such posts, the ^{- number -} ~~board~~ to be reserved for the Sch.Caste and Sch.Tribe candidates and those to be treated as unreaserved, has to be calculated on the total cadre strength.

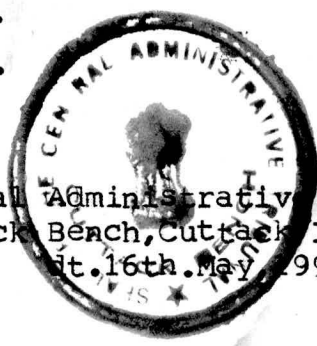
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The case is accordingly disposed of. No costs.

[Signature]
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Vice-Chairman.

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Member (Judicial)



Central Administrative Tribunal,
Cuttack Bench, Cuttack I. Hossain/
dt. 16th May 1991.