

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

45  
counter copy  
not served

09. 28.02.2001

Last chance to file rejoinder has passed. No rejoinder has been filed yet. Further time cannot be allowed to file rejoinder. Pleadings are taken to be completed. Adjourned to 16.03.2001. for hearing.

SJM  
Vice-Chairman  
28/2

Member (3):

counter not  
served.

28/1/01 Bench

Rejoinder not  
filed.

27/2 Bench

For hearing

28/3 Bench

10. ORDER DATED 16-3-2001.

Heard Shri G.C. Mohapatra, learned counsel for the applicant and Shri B. Pal, learned Senior counsel for the Respondents and have also perused the records.

2. In this Original Application, applicants 1 and 2 have stated that they are working as Diesel Driving Assistant (in short D.D.A.) and they belong to SC. Applicant No. 3 is All India SC/ST Railways Employees Association, SE Railway, Khurda Road Branch represented by its Senior Vice-President, N. Appa Rao. In this Original Application the applicants have set forth their grievances and have prayed for such orders as the Tribunal may deem fit. Respondents have filed counter opposing the various averments of the applicants. No rejoinder has been filed. Grievance of the applicants are that they originally joined as engine cleaner in 1974 and were promoted as second fireman in 1976. They were promoted as Fireman in 1985 and were allowed to work as Diesel Driving Assistant from December, 1985. So far as applicant

SJM

5  
NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

No.1 is concerned and from June, 1986 for applicant No.2 is concerned. Applicants have stated that for filling up of the posts in the Railways reservation for SC/ST have to be observed and this has been emphasized by the Chief Personnel Officer, Garden Reach in his letter dated 27.12.1993. Applicants have further stated that in the provisional seniority list of DDAs name of applicant No.1 finds mentioned against Sl.No.92 and that of applicant No.2 against Sl.No.102. Above them there are eight SC employees whose names find placed against serials mentioned by the applicants in para 4-X of the Original Application. Next promotion from the post of DDA is to the grade of Shunter. Grievance of the applicants is that without observing reservation principle Divisional Railway Manager, Khurda Road, Respondent No.3 had promoted 14 DDAs to the post of Shunter ignoring the cases of applicants 1 and 2. Sl.Nos. of these persons who have been promoted to the post of Shunter have been mentioned by the applicants in para 4-XII of the Original Application. It is further stated that after a few days of promotion of these persons <sup>again</sup> ~~again~~ they were promoted to the post of Goods Driver Gr.II and thereby giving double benefits of promotion to them within a short period. In the context of the above the applicants have come up with the grievance and with the prayer as mentioned above.

*Jdm*

3. From the above recital of averments made by the applicants in their Original Application their grievance is with regard to non-observation of reservation principle in the matter of filling up of the post of Shunter by way of promotion.

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

Free copy  
of the order is  
dt. 16.3.01  
given to the  
both counsel.  
Sath  
28/3

1. P  
S-O

4. Respondents in their counter have pointed out that there is no short-fall in the representation of SC in the grade of shunter Gr.II. This averment has not been denied by the applicants by filing any rejoinder. Therefore, it must be held that at the level of shunter at the time promotion of these 14 persons there was no short-fall in the representation of SC persons. In view of the above, applicants 1 and 2 can not claim that they should have been promoted to the post of shunter over the head of their seniors in the provisional seniority list on the ground that they are belonging to SC community.

5. The second aspect of the matter is that according to the Respondents 14 persons who were promoted were working as DDA Gr.I in the scale of Rs.1200-2040 whereas the applicants are in the post of DDA Gr.II in the scale of Rs.950-1500/- In view of this the applicants can not claim that they should have been considered for promotion straightaway from the post of DDA Gr.II to the post of shunter. In view of the above we hold that the applicants are not entitled to be promoted in place of 14 persons who have been given promotion to the post of shunter. In any case, the applicants have not made these 14 persons as Respondents to this O.A. On this ground also their claim for promotion in place of the 14 persons can not be considered.

6. In the result therefore, we hold that the Original Application is without any merit and the same is rejected. No costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

SOMNATH SOM  
(SOMNATH SOM)  
VICE-CHAIRMAN  
16.3.2001