

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH: :CALCUTTA

ORIGINAL APPLICATION NO. 1147/96

FRIDAY, THE NINETEENTH DAY OF MAY, 2000

SHRI S.K. GHOSAL. .. MEMBER (A)
SHRI P.C. KANNAN. .. MEMBER (J)
Debanshu Hazra²⁹ & 194 Others .. Applicants

Vs.

Union of India & Others

Mrs. Soma Banerjee Counsel for Applicants
Mr. P.K. Arora Counsel for Respondents

ORDER

Shri S.K. Ghosal. ... Member (A)

In this case the grievance of the applicants is that while considering promotion to the post of Goods Driver ~~Grade A~~²⁹ from the cadre of Assistant Driver, even though they were relatively senior in the latter cadre to the private respondents at Sl. Nos 7 to 13, their case has been overlooked and the private respondents have been promoted to the higher cadre of Goods Driver ~~Grade A~~²⁹ on the ground that the private respondents belong to a special category like SC/ST for whom reservation had to be made. The learned counsel for the applicants has essentially²⁹ argued that once in a particular feeder cadre the special groups like SCs and STs have been accommodated against the reserved slots at the time of their appointment, or on promotion from a still lower cadre, and

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yet their seniority has been fixed lower than the applicants in the feeder cadre, such special category appointees, like the private respondents here, cannot again supercede the applicants for promotion to the next higher cadre only because in the next higher cadre there is no adequate representation of the SCs and STs.

2. In support of this basic contention made on behalf of applicants, learned counsel for the applicants has relied on the case-law laid down down by the Hon'ble Supreme Court in Indra Sawhney Vs. Union of India reported in 1992 (6) SLR (SC0 321.

3. The applicants have finally sought the following reliefs:-

"a) A direction may be given to the applicants to move this application jointly as their grievances are same and they are similarly circumstanced persons.

b) A mandate please may be given directing the respondent authorities not to give promotion to the Junior most SC/ST candidates and also the private respondents herein to the post of Grade "A" Assistant Driver which are in safety category superceding the senior most persons of unreserved categories who are applicants herein.



- c) An order directing the respondent authorities to give promotion to the applicants to the post of Assistant Grade "A" Driver according to their seniority position as mentioned vide seniority list dated 25th June, 1996 Annexure "A" herein above following the judicial findings as reported in A.I.R. 1993, Supreme Court of India in case of Indra Sawhny Vs. Union of India, that in case of promotion general procedure must be followed.
- d) A mandate please may be given to the respondent authorities not to give facilities to the reserved candidates in case of promotion of each and every stages, denying the legitimate claim of unreserved categories particularly in safety category posts as at the time of appointment they have availed the quota facilities.
- e) Any other order, further orders as this Hon'ble Tribunal may deem fit and proper."

4. The respondents in their reply statement have pointed out that even for the various promotional cadres, based on their percentage in the overall population, certain specific rules for reservation for SCs and STs have been promulgated and it has become obligatory for the authorities in the Railways to earmark 15% of the



promotional posts for SC candidates and 7 1/2% for ^{SC} ~~ST~~ candidates. They have, therefore, pleaded that the main prayers of the applicants, namely, that they should be considered for promotion to the post of Goods Driver ^{SC} ~~ST~~ based merely on seniority, that no slots in that cadre can be reserved for categories like SCs and STs and that, therefore, no SCs and STs, who are junior to the applicants in the cadre of Assistant Driver, can be promoted to the higher cadre of Goods Driver ^{SC} ~~ST~~ in preference to them and ignoring their seniority, are not tenable and therefore ought to be rejected.

5. It seems to us that the present OA is misconceived. There is no law prohibiting reservation in the promotional cadres for SCs and STs particularly after the provision of Article 16 of our Constitution have been amended, ^{which took place} after the Hon'ble Supreme Court laid down the law in Indra Sawhney's case. Under the amended provisions of Article 16 of the Constitution, it is perfectly competent for the administration to make reservation for special categories like SCs and STs at all levels, wherever administration is satisfied that such promotions are necessary to ensure adequate representation for these special categories or groups. ^{SC} ~~ST~~. The post of Goods Driver ^{SC} ~~ST~~ is admittedly a promotional post for the post of Assistant Driver. There is, therefore, no bar for the administration to provide for reservation for special

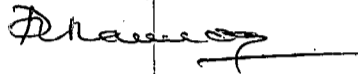
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groups like SC and ST in that post. As we have already observed the basic contention of the learned counsel for the applicant is that once to the feeder cadre of Assistant Driver, promotion had already been granted to the candidates belonging to SCs and STs based on reservation, they cannot again be granted the benefit of reservation in the higher cadre of Goods Drivers ~~SCs and STs~~. In the light of the amended provisions of Article 16 of our Constitution, mentioned by us above, evidently that basic contention is not tenable. Further no material has been placed before us to support ~~the~~^{the} contention that for the cadre of Goods Drivers ~~SCs and STs~~, specially ~~SCs and STs~~^{SCs and STs} safety standards have been laid down and that therefore the general policy of reservation for SCs/STs in all the promotional cadres can not be made applicable here.

6. We must also observe that it is not the case of the applicants here that while making these promotions based on reservation to the cadre of Goods Drivers ~~SCs and STs~~^{SCs and STs} the promotions granted to the SC/ST candidates i.e. the private respondents, is based on the accelerated promotions that they had received earlier to the feeder category of Assistant Drivers or that because of such accelerated promotions to that feeder cadre, the applicants had been placed in seniority lower than the party respondents in the cadre of Assistant Driver.

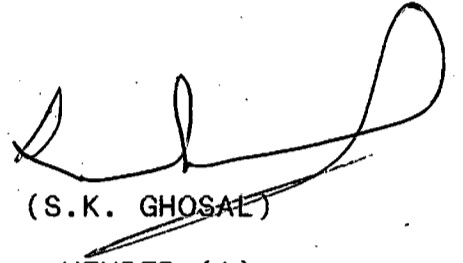
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7. In the light of the discussions made above, we are of the considered view that the applicants are not eligible for the reliefs sought by them. The OA has no merits. Hence it is rejected. No costs.



(P.C. KANNAN)

MEMBER (J)



(S.K. GHOSAL)

MEMBER (A)

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