

In The Central Administrative Tribunal.
Calcutta Bench.

OA 165 of 1996

Present : Hon'ble Mr. B.P. Singh, Administrative Member
Hon'ble Mr. M.L. Chauhan, Judicial Member

Shri Sanjiv Halder & Anr.

- VS -

- 1) Union of India, service through the General Manager, S.E. Rly., Garden Reach, Calcutta.
- 2) Chief Personnel Officer, S.E. Rly., Garden Reach, Calcutta.
- 3) Divisional Railway Manager, S.E.Rly., Agra.
- 4) Divisional Personnel Officer, S.E.Rly., Adra Division.

.... Respondents

For the Applicants : Mr. P.C. Das, Counsel

For the Respondents: Mr. P. Chatterjee, Counsel

Heard on : 12-02-2002

Date of Order : 12-02-2002

O R D E R

B.P. SINGH, AM

In this O.A. the applicants have prayed for grant of similar benefit which has been granted to other similarly placed officials as per Annexure-E which has been issued after the judgement of Hon'ble Apex Court as well as the decision of CAT in TA No.370 of 1987 and CCP No.113 of 1993 of Shri R.N. Roychoudhury and 39 others - versus - Union of India & Others in which the applicants were also the parties.

2. We have heard ld. Counsel of both the parties.

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3. Ld. counsel for the applicants submits that the benefit of higher pay in the scale of Rs.700-900(RSP) w.e.f. 1-8-1983 was granted to 16 applicants in O.A.370 of 1987 whereas the same was denied to the applicants in the present O.A. So, the applicants are entitled to get the same benefit w.e.f. the same date along with the consequential arrears and other benefits.

4. When the case was taken up for hearing ld. counsel for the respondents submits that in their reply to the O.A. the respondents enclosed a letter dated 16-1-1996 issued by the Chief Personnel Officer, Garden Reach, S.E. Railway, Calcutta to the Divisional Personnel Officer, S.E. Railway, Adra in which it has been stated that the benefit of reservation for SC/ST candidates is not available in the case of creation of supernumerary post. Therefore, it was directed that the case of the applicants should be dealt with in view of the letter issued by the respondent authorities. The ld. counsel has also drawn our attention to the decision passed in O.A.1319 of 1996 in which the letter dated 16-1-96 (wrongly quoted as dated 16-5-1996) issued by the Chief Personnel Officer, Garden Reach, S.E. Railway was set aside. We would like to quote the said paragraph below :

"In response to your letter under reference it is stated that as per rule in vogue reservation of SC/ST candidates are not permissible in case of creation of supernumerary post. Since supernumerary post is a personal post which is created for a definite period if another permanent vacancy or temporary post is not available for the employee whose lien is to be protected by creation of supernumerary post, the same can be abolished at any time on account of retirement or confirmation of the employee in another regular post.

In view of the above, you are, therefore, requested not to include benefit of reservation of SC/ST candidate against post facto creation of supernumerary post, if required".

Contd.....

In view of above decision, the copy of which has been supplied to us for making reference by the ld. counsel for the applicants as well as by the ld. counsel for the respondents, the ld. counsel for the respondents submits that in view of the new development, the case of the applicants can be considered if they make a fresh representation drawing attention to the benefit of the decision in O.A.1319 of 1996 within a specified period. Then the respondent authorities will consider the same and pass reasoned and speaking order.

5. In view of above, we direct the present applicants to make representation as directed above within a period of one month from to-day to the respondent authorities. On receipt of the representation the respondent authorities will consider the representation treating the same as part of this O.A. and pass reasoned and speaking order within a period of three months from the date of communication of this order and communicate the order to the applicants within two weeks thereafter. If the representation is decided ^{not in the favour of the Applicants say} then the applicants would be entitled for all consequential benefits from the said date in accordance with the decision in O.A. 1319 of 1996. With this observation, application is disposed of awarding no costs.

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