

IN THE COURT OF ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 19-04-2000

O.A. No. 290/1995

1. Raj Kumar Gupta S/O Shri Heera Lal by caste Gupta aged about 40 years resident of Gr. No. D-28, Agarwal Quarters Bikaner presently working as Office Supdt. Gr. II (Ad hoc) in Personnel Branch, D.R.M's Office, Northern Railway, Bikaner.
2. Shubh Lal S/O Shri Ram Kumar by caste Parihar aged about 43 years resident of Rani Bazar, Behind Suraj Takies, Bikaner presently working as Office Supdt. Gr. II (Ad hoc) in personnel Branch DRM's Office, Northern Railway, Bikaner.
3. Satya Narain S/O Shri Jetha Ram by Caste Tanwar aged about 38 years resident of Chautina Well, Dhuri Bai ki Haveli, Bikaner resently working as Office Supdt. Gr. II (Ad hoc) in Personnel Branch of DRM's Office, Northern Railway, Bikaner.
4. Smt. Neelam Jyoti W/O Shri Om Prakash by Caste Sharma aged about 40 years resident of Railway Quarter No. T-58, Near Railway Stadium, Bikaner, presently working as Office Supdt. Gr. II (Ad hoc) in Personnel Branch DRM's office, Northern Railway, Bikaner.

... Applicants

Vs

1. The Union of India through its Chairman, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, Northern Railway, Baroda House, New Delhi.
3. Chief Personnel Officer, Northern Railway, Baroda House, New Delhi.
4. Divisional Railway Manager, Northern Railway, Bikaner.
5. Senior Divisional Personnel Officer, Northern Railway, Bikaner.

... Respondents.

Mr. Vijay Mehta, Counsel for the Applicants.

Mr. R.K. Soni, Counsel for the Respondents.

Capable of

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CORAM :

HON'BLE MR. JUSTICE B.S. RAIKOTE, VICE CHAIRMAN

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

O R D E R

(PER HON'BLE MR. GOPAL SINGH, ADM. MEMBER)

Applicants, Raj Kumar Gupta, Shubh Lal, Satya Narain and Smt. Neelam Jyoti, have filed this Application under Section 19 of the Administrative Tribunals Act, 1985, praying for setting aside impugned orders at Annexure A/1 to A/11., and for a direction to the respondents to recast the seniority list in the cadre of Ministerial Staff of all grades in Personnel Branch as per judicial pronouncement, with all consequential benefits and to consider the applicants for modified selection against upgraded posts because of re-structuring with effect from 01.3.1993. By way of interim order, the applicants sought a direction to the respondents to ^{pending} keep the selection proceedings for the posts of Office Superintendent Gr. II, till the finalisation of this Original Application.

2. This Tribunal vide Order dated 18.7.1995, had restrained the respondents from holding the proposed examination as per Notification dated 22.7.1995 and 23.7.1995.

3. Notices were issued to the respondents, who have filed their reply.

4. In this case, the seniority given to reserved category candidates has been challenged by the applicants. It is their contention that the reserved category candidates cannot be permitted to have their seniority from the date of entry into

Gopal Singh

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the promotional grade hence, this application.

5. The controversy regarding seniority of reserved category candidates in promotional grade/posts has recently been settled by Hon'ble the Supreme Court vide their Judgment dated 16.9.'99 in Ajit Singh's II case, the relevant portion of the Judgment are abstracted as below :-

"75 We, therefore, hold that the roster point promotees (reserved category) cannot count their seniority in the promoted category from the date of their continuous officialisation in the promoted post, vis-a-vis the general candidates who were senior to them in the lower category and who were later promoted. On the other hand, the senior general candidate at the lower level, if he reaches the promotional level later but before the further promotion of the reserved candidate he will have to be treated as senior, at the promotional level, to the reserved candidate even if the reserved candidate was earlier promoted to that level

79.. In case any senior general candidate at Level 2 (Assistant) reaches Level 3 (Superintendent Grade II) before the reserved candidate (roster point promotee) at Level 3 goes further up to Level 4 in that case the seniority at Level 3 has to be modified by placing such a general candidate above the roster promotee, reselecting their inter se seniority of Level 2. Further, promotion to Level 4 must be on the basis of such a modified seniority at Level 3, namely, that the seniority general candidate of Level 2 will remain senior also at Level 3 to the reserved candidate, even if the latter had reached Level 3 earlier and remained there when the senior general candidate reached that Level 3. In cases where the reserved candidate has gone up to Level 4 ignoring the seniority of the senior general candidate at Level 3, seniority at Level 4 has to be refixed (when the senior general candidate is promoted to Level 4) on the basis of when the time of reserved candidate for promotion to Level 4 would have come, if the case of the senior general candidates was considered at Level 3 in due time.....

86 Coming to the 'prospectivity' of Ajit Singh, decided on 1.3.96, the question is in regard to the seniority of the reserved candidates at the promotional level where such promotions have taken place before 01.3.'96

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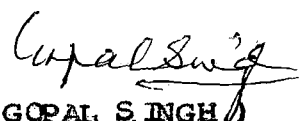
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87 We have accepted, while dealing with points 1 and 2 that the reserved candidates who get promoted at two levels by roster points (say) from Level 1 to Level 2 and Level 2 to Level 3 cannot count their seniority at Level 3 as against senior general candidates who reached Level 3 before the reserved candidate moved upto level 4, has to be treated as senior at Level 3.

88 Where, before 1.3.'96, i.e., the date of Ajit Singh's judgment, at the level 3, there were reserved candidates who reached there earlier and also senior general candidate who reached there later, (but before the reserved candidate was promoted to level 4) and when in spite of the fact that the senior general candidate had to be treated as senior at level 3(in view of Ajit Singh), the reserved candidate is further promoted to level 4-without considering the fact that the senior general candidate was also available at level 3-then, after 1.3.96, it becomes necessary to review the promotion of the reserved candidate to level 4 and reconsider the same (without causing reversion to the reserved candidate who reached level 4 before 1.3.96). As and when the senior reserved candidate is later promoted to level 4, the seniority at level 4 has also to be refixed on the basis of when the reserved candidate at level 3 would have got his normal promotion, treating him as junior to the senior general candidate at level 3."

6. Thus, the controversy relating to seniority of reserved category candidates in promotional grade/post has been settled by Hon'ble the Supreme Court in their Judgement dated 16.9.1999, and nothing remains for us to decide in this O.A. We only hope that the respondents will faithfully and sincerely follow the law laid down by the Supreme Court in this regard, and revise seniority lists accordingly.

7. The Original Application is accordingly disposed of with no order as to costs.


(GOPAL SINGH)
Amd. Member


(B.S. RAIKOTE)
Vice Chairman

J

Part II and III destroyed
in my presence on 17-18-06
under the supervision of
section officer as per
order dated 23/8/06

Section officer (Record)

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(R. R. Son) delro