

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 15/1996
T.A. No.

~~1998~~

DATE OF DECISION : 21.12.98

Bansi Singh & 4 Ors. Petitioner_s

Mr. J.K. Kaushik Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. R.K. Soni .. Advocate for the Respondent(s)
Nos. 1 to 3

Mr. S.K. Malik, Counsel for the respondents Nos. 4 to 5.

CORAM :

The Hon'ble Mr. A.K. Misra, Judl. Member

The Hon'ble Mr. Gopal Singh, Adm. Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? ⁺
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? ⁺
4. Whether it needs to be circulated to other Benches of the Tribunal ? ⁺

Gopal Singh
(GOPAL SINGH)
Adm. Member

A.K. Misra
(A.K. MISRA)
Judl. Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 21/12/98

O.A. No. 15/1996

1. Banssi Singh son of Shri Nathu Singh aged about 57 years, presently working as Sr. G/Guard under S. S., Samdari, Northern Railway.
2. Laxmi Narain Sharma son of Shri Prabhu Lal aged about 51 years, presently working as Sr. G/Guard under S.S., Bhagat Ki Kothi, Jodhpur, Northern Railway.
3. Bajrang Lal son of Shri V. Dayal aged about 50 years, presently working as Sr. G/Guard under S.S., Bhagat Ki Kothi, Jodhpur, Northern Railway.
4. Guman Singh son of Shri Jaganath Singh aged about 49 years, presently working as G/Guard under S.S., Bhagat Ki Kothi, Jodhpur, Northern Railway.
5. Tulsii Das S/o. Sh. Saroop Das aged about 57 years, working as G/Guard under S.S., Bhagat Ki Kothi, Jodhpur, Northern

... Applicants.

v e r s u s

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Personnel Officer, Northern Railway, Jodhpur Division, Jodhpur.
3. Divisional Railway Manager, Northern Railway, Jodhpur Division, Jodhpur.
4. Banssi Lal Lakhani son of Shri Chetan Ram ji Lakhani, House No. 20, Maghwalon ka Mohalla, Massoria, Jodhpur (presently working as Guard in the office of the Station Master, Northern Railway, Samdari).
5. Nand Kishore son of Shri Gudru Ram ji, resident of Inside Sojati Gate, Hanumanji ki Bakari, Harizan Basti, Jodhpur.

... Respondents.

Mr. J.K. Kaushik, Counsel for the applicants.

Mr. R.K. Soni, Counsel for the respondents Nos. 1 to 3.

Mr. S.K. Malik, Counsel for the respondents Nos. 4 and 5.

Upadhyay

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

(Per Hon'ble Mr. Gopal Singh)

Applicants, Bansi Singh, Laxmi Narain Sharma, Bajrang Lal, Guman Singh and Tulsi Das, have filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying as under :-

"That the impugned order dated 29.12.95 (Annex. A/1) may be declared illegal and the same be quashed. The respondents may be directed to prepare/finalise seniority list in respect of Goods Guard, Pass Guard and Mail Guard in the light of the judgement of the Hon'ble Supreme Court in Malik's case, Sabharwal's case and Virpal Singh's case and thereafter take necessary follow up action regarding issuance of reversion/promotion orders and thereafter only the selection for the post of Passenger Guard may be initiated. The applicant may also be allowed all consequential benefits."

2. Applicants' case is that in terms of various judgements of Hon'ble the Supreme Court in regard to reservation, the respondents should have revised the seniority list of Goods Guards and if that had been done by them, the seniority of many reserved category candidates who got accelerated promotion because of reservation would have been brought down and as such they would not have been eligible for consideration for the post of Passenger Guard as notified by the respondents vide their letter dated 29.12.1995 (Annexure A/1). It is contended by the applicants that before organising any selection for the post of Passenger Guard, the respondents should recast the seniority list in terms of various judgements of Hon'ble the Supreme Court.

3. Notices were issued to the respondents and they have filed their reply contesting the application. It has been mentioned on behalf of the official respondents that various judgements of Hon'ble the Supreme Court in this regard are under consideration of the Railway Board and no instructions have so far been issued to recast the seniority list in the light of those judgements and, therefore, they are following the existing seniority list for making promotion/selection.

Gopal Singh

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4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. The respondents vide their letter dated 29.12.95 (Annexure A/1) have invited 54 Goods Guard for filling up 18 vacancies in the cadre of Passenger Guard. Out of these 18 vacancies, 4 have been reserved for Scheduled Caste and 1 for Scheduled Tribe candidate. It is the contention of the applicants that inclusion of the names of Scheduled Caste / Scheduled Tribe in the eligibility list will jeopardise their chances of future promotion and therefore, they have sought a direction to the respondents to revise the seniority list in terms of various judgements of Hon'ble the Supreme Court before any selection/promotion is resorted to.

6. The law laid down by Hon'ble the Supreme Court on reservation through various judgements is summarised as under :-

- (i) There is absolutely no bar for filling up the vacancies in the general category even in favour of candidates belonging to the reserved category if the said reserved category candidate is entitled to the same on the basis of his general seniority.



By the time a senior person belonging to the general category gets promoted to the higher grade if the junior person belonging to reserved category who had been promoted to the said higher grade earlier has been promoted to still higher grade, question of granting seniority to a general category candidate in the promoted category could not arise.

- (iii) 'The running account' (under roster reservation) is to operate only till the quota provided under the Government rules/instructions is reached and not thereafter.

- (iv) The vacancies arising in the cadre after the initial posts are filled (as per roster), will cause no difficulty. As and when there is a vacancy in a particular post, the same has to be filled from amongst the category to which the post belonged in the roster, but in the event of non-availability of a reserved candidate at the roster point it would be open to the State Government to carry forward the point in a just and fair manner.

- (v) The law laid down as above should operate only prospectively (10.2.1995).

Upadhyay

P. W. / 2412

die
S. de.
24/12/98.

R. C. W. / 2412

Part II and III destroyed
in my presence on 7.6.06
under the supervision of
section officer as per
order dated 28/11/95

Section officer (Record)