13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

Date of Order : 24.1.2001.

1. O.A. No.157/1997

Y.C. Pathak S/O Sh. R.C. Pathak, aged about 43 years, R/O Otr. No. M/60 Khamblighat District Rajsamanadh, at present employed on the post of Permanent Way Inspector, Khamblighat, Western Rly.

... Applicant

Vs

- 1. The Union of India, through General Manager, Western Railwa Churchgate, Bombay.
- 2. The Divisional Railway Manager, Ajmer Division, Ajmer.
- 3. Shri P.T. Verghase, PWI Grd. I System Training School (Enggr), Ajmer Western Railway.
- 4. Shri Rettan Lal, PWI Grd. I., Palanpur, District Ganaskata (Gujarat).
- 5. Shri K.K. Solanki, PWI Grd., I, System Training School. Ajmer Western Railway.

... Respondents

2. <u>0.A. No.171/199</u>7

Shiv Dayal Singh S/O Shri Ram Swaroop, aged about 45 years, R/O Otr. No.E/20 Mavli Jn. District Udaipur, at present employed on the post of Permanent Way Inspector, Mavli Jn. Western Railway.

... Applicant

Vs ·

The Union of India, through General Manager, Western Railway, Churchgate, Bombay.

- 2. The Divisional Railway Manager, Ajmer Division, Ajmer.
- 3. Shri Rattan Lal, PWI Grd., I., Palanpur, District Ganaskata (Gujarat).
- 4. Shri K.K. Solanki, PWI Grd., I. System Training Shood, Ajmer Western Railway.

... Respondents

Mr. J.K. Kaushik, Counsel for the Applicants (in both O.As)
Mr. S.S. Vyas, Counsel for the Respondents No. 1 & 2 (in O.A. No.157/97) and for Respondents 1 to 4 (in O.A. No.171/97)
None is present for Respondents No. 3 to 5 (in OA No.157/97)

CORAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman Hon'ble Mr. Gopal Singh, Administrative Member

Contd...2.

Corpalsing



ORDER

(PER HON'BLE MR. GOPAL SINGH)

The controversy involved in both these Original Applications is the same and the relief sought by the applicant is also identical. Therefore, both these application are disposed of by this common order.

- 2. The respondent department had introduced the cadre restructuring scheme effective from 0133.1993, in respect of various Groups C and D cadre of the Department. Accordingly, some posts of Permanent Way Inspector (PWI Grd.I) scale 2000-3200 became available for being filled up from the feeder cadre through modified selection procedure. Contention of the applicants is that they are senior to one Shri Rattan Lal, who has been promoted under the cadre restructuring scheme vide respondents letter dated 15/20-11-1995 (Annexure A/1) as PWI Grd It has also been contended by the respondents that Sh. Rattanla (Respondent No.4) belongs to Scheduled Tribe and has been promoted as PWI on the basis of Roster Reservation, whereas Roster Reservation is not attracted in the cadre restructuring scheme as such the Contended with . Hence, these applications.
- at the relevant point of time Roster Reservation was applicable in promotions under the cadre restructuring scheme and accordingly one post was kept reserved for Scheduled Tribe category and as and when a Scheduled Tribe became available, he was promoted to the post of PwI. It has, therefore, been contended by the respondents that there is no illegality in promoting Sh. Rattan Lal (Respondent No.4) under the cadre restructuring scheme. Accordingly, it has been prayed by the respondents that both the Applications deserve dismissal.

Copally

Contd...3

- 4. We have heard the learned Counsel for the parties, and perused the records of the case carefully.
- 5. In Civil Appeal No.3622/1995 decided on 19.11.'98,
 Union of India & Ors. Vs V.K. Sirothia Hon'ble the Supreme
 Court has held that cadre restructuring scheme does not attract
 Roster reservation and in that view of the matter Sh. Rattanla.
 (Respondent No.4) should not have been promoted as PWI Grd. I.
 Further, in Ajit Singh IInd case followed by the case of Sh.
 Jitendra Pal Singh 1999(7) SCC 257 and the case of M.G. Badappa
 navar & Anr. Vs State of Karnataka & Ors 200(5) SIR 801, Hon'b.
 the Supreme Court has held that reserved category candidates
 promoted prior to 1.4.'97 on the basis of Roster reservation
 will not be reverted and their service would be treated as ad
 hoc. They would get regular seniority in the promotional post
 is and when they get regular promotion on that post in their
- indicated above, we are of the view that Shri Rattan Lal(Respondent No.4) promoted on the basis of Roster reservation would continue as such on ad hoc basis till regularisation, with seniormost two applicants would also get promotional benefit to the post of PWI Grade I from the date Shri Rattan Lal has been promoted as PWI Grd. I. It is seen from the seniority list dated 21.6.93 (Annexure A/5) that Shri Y.C. Pathak (applicant in O.A. No.157/97) is senior to Shri Shiv Dayal Singh (applicant in O.A. 171/97). Thus, Shri Y.C. Pathak only will be getting the promotional benefit under the cadre restructuring scheme and Shri Shiv Dayal Singh will not be entitled to any benefit under the cadre restructuring scheme. Accordingly, we pass the order as under:

Cirpally

Contd...4

"Original Application No. 171 of 1997 is dismissed.
Original Application No.157 of 1997 is allowed with a direction to the respondents to consider the case of the applicant (Shri Y.C. Pathak) for promotion to the post of PWI Grd. I under the cadre restructuring scheme and if found suitable, extend him benefit with effects from the date the said benefit was extended to Shri Rattan Lal (Respondent No.4), with all consequential benefits. Respondent No.4 would, however, be continued as such on ad hoc basis till regularisation."

7. Parties are left to bear their own costs.

(GOPAL SINGH) Adm. Member (B.S. RAIKOTE) Vice Chairman

*J *