

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order ; 31.7.2000.

O.A. No. 226/1997

Chetanya Prakash Ojha S/O Shri Chhagan Lal Ojha by caste Srimali-Brahmin, aged about 56 years, R/O at present working as Office Superintendent Gr. I in the office of District Controller of Stores, Northern Railway, Jodhpur.

... Applicant

Vs

1. Chairman, Railway Board, Rail Bhawan, New Delhi.
2. Union of India through its General Manager, Northern Railway, Headquarter Building, Baroda House, New Delhi.
3. The District Controller of Stores, Northern Railway, Jodhpur.
4. The Assistant Personnel Officer (Workshop), Northern Railway, Jodhpur.

... Respondents

Mr. S.N. Trivedi, Counsel for the Applicant.

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

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 GOPAL SINGH)

Applicant, Chetanya Prakash Ojha, in this application under Section 19 of the Administrative Tribunals Act, 1985, has prayed that the seniority list (Annexure A/1) qua the applicant, and notice dated 25.6.1997 (Annexure A/2) and any consequential order passed thereof be quashed and set

Gopal Singh

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aside with all consequential benefits. The applicant has further prayed that he may not be reverted to the lower post in lower rank from the post of Office Superintendent Grade I.

2. By our interim order dated 15.7.1997, the respondents were restrained from demoting the applicant from the post of Office Superintendent Grd. I in the pay scale of Rs.2000-3200 to the lower post of Office Superintendent Grd. II in the pay scale of Rs.1600-2660, in pursuance of order dated 25.6.97 (Annexure A/2).

3. Applicant's case is that he has been working as Office Superintendent Grd. I since December, 1996 with the respondent-Railways. The applicant has been issued a notice dated 25.6.1997 for his reversion on the ground that in terms of the judgment of Hon'ble the Supreme Court in Veer Pal Singh Chouhan's case, some reserved category candidates have been shown to be senior to the applicant in the seniority list dated 28.5.1997. It is the contention of the applicant that the applicant has been regularly promoted from the post of Office Superintendent Grd. II, to the post of Office Superintendent Grd. I against the substantive post and, therefore, the question of his reversion should not arise.

4. In the counter, it has been stated by the respondents that initially the seniority list dated 23.10.1996 was prepared on the basis of the judgment of Hon'ble the Supreme Court in Veer Pal Singh Chouhan's case. Subsequently on a clarification by Hon'ble the Supreme Court that their judgment in Veer Pal Singh Chouhan's case would be effective from 10.2.1995, and the seniority of reserved category candidates promoted to higher posts prior to 10.2.1995, will not be disturbed, the seniority list was revised keeping the seniority

Capable of

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position of reserved category candidates promoted prior to 10.2.1995 in higher posts intact. Thus, the applicant has lost his seniority to the reserved category candidates promoted prior to 10.2.1995 and the reserved category candidates became senior to the applicant in the Grd. of Office Superintendent Grd. II. Buddi Singh and Hira Lal both reserved category candidates, having become senior to the applicant were to be promoted as Office Superintendent Grd. I and, therefore, the applicant was served with a show-cause notice for reversion vide letter dated 25.6.1997 at Annexure A/2. Thus, there is no illegality in the order dated 25.6.1997 (Annexure A/2) and the seniority list dated 28.5.1997 (Annexure A/1), it has, there/fore, been prayed by the respondents that the application has no basis and deserves to be dismissed.

5. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

6 In their latest judgment in the case of Ajit Singh and others (II) Vs State of Punjab and others, 1999 SCC (I&S) 1239, the Hon'ble Supreme Court has held that the seniority acquired by a reserved category candidate on promotion to the higher grade under reservation roster would be modified if a senior general category candidate is promoted to that higher grade unless the reserved category candidate has been further promoted to the next higher grade.

7. In the light of above judgment, Hon'ble the Supreme Court the seniority of reserved category candidate is required to be revised as and when his senior in the feeder cadre gets promoted to the higher post and the date of 10.2.1995 has lost its significance. It is also seen that the respondent-

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Railways have also circulated the judgment of Hon'ble the Supreme Court in Ajit Singh II case for compliance by all the Divisions vide their letter dated 29.6.2000. In the light of above discussion, we find that the application deserves to be allowed. Accordingly, we pass the following order :

8. The application is allowed. Notice dated 25.6.1997 (Annexure A/2) is set aside. Seniority list dated 28.5.97 (Annexure A/1) be revised in terms of latest judgment of Hon'ble the Supreme Court in Ajit Singh II case. Our interim order dated 15.7.1997 stands confirmed.

9. Parties are left to bear their own costs.



Gopal Singh
(GOPAL SINGH)
Adm. Member

B.S. RAIKOTE
(B.S. RAIKOTE)
Vice Chairman

J

PJ.
Rm
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for
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Part II and III destroyed
in my presence on 5-1-2007
under the supervision of
section officer () as per
order dated 12/11/2006

M. G. S.
Section officer (Receipt)