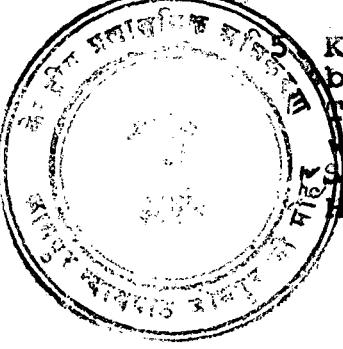


*TS*  
Date of Order : 03.8.2001

O. A. No. 112/1998.

1. R. B. Singh, S/o Shri Bachhlal Singh by caste Rajput, aged 44 years, resident of Sirsa and at present working as Goods Supervisor in Goods Shed of Bikaner Division, Northern Railway, Sirsa.
2. Jagdish Lal Batra S/o Shri Laxman Das, by caste Arora, aged 54 years, resident of House No. 18/523, Mohalla Inderpuri Gali No. 3, Near Shiv Chowk, Sirsa and at present working as Goods Supervisor in Goods Shed of Bikaner Division, Northern Railway, Enlabad.
3. Nirmal Kumar Gupta S/o Shri J. P. Singh by caste Gupta, aged 56 years, resident of Quarter No. E/55/8, Railway Colony, Sirsa and at present working as Goods Supervisor in Goods Shed of Bikaner Division, Northern Railway, Sirsa.
4. Jogendra Pal Verma S/o Shri Hari Ram by caste Verma, aged 55 years, resident of Rampura Basti, Bikaner and at present working as Goods Supervisor at Lalgarh Railway Station of Bikaner Division, Northern Railway, Lalgarh.

  
Kuber Tiwari S/o Shri Mishri Tiwari aged 56 years, by caste Brahmin, resident of Railway Quarter No. T/28/G Railway Colony, Hisar and at present working as Goods Supervisor at Hisar Railway Station of Bikaner Division, Northern Railway, Hissar.

APPLICANTS ...

VERSUS  
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1. The Union of India, through General Manager, Northern Railway, Headquarter Building, New Delhi.
2. The Divisional Railway Manager, Northern Railway, D.R.M.'s Office, Bikaner.
3. The Divisional Personnel Officer, Northern Railway, D.R.M.'s Office, Bikaner.
4. Shri Bhag Chand Meena, S/o Shri Bhagwana Ram, by caste Meena(ST) resident of T-12-B, Railway Colony, Sri Ganganagar and at present working as Chief Goods Supervisor.
5. Shri Jagmohan Meena S/o Shri Mahadev Meena, by caste Meena(ST), resident of T-15-C, Railway Colony, Hanumangarh and at present working as Goods Supervisor, Northern Railway, Hanumangarh.

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6. Shri Ram Pyare S/o Shri Hemraj, by caste Scheduled Caste, resident of Durga Colony, Hissar and at present working as Goods Supervisor, Northern Railway, Hissar(Haryana) .

7. Shri Bhagwan Das, S/o Shri Chhaman Ram, by caste Scheduled Caste, resident of Ward No. 9, Old Suratgarh District Sri Ganganagar and at present working as Goods Supervisor, Northern Railway, Suratgarh.

**RESPONDENTS...**

Mr. S. N. Trivedi, counsel for Applicants.

Mr. S. S. Vyas, counsel for respondent No. 1 to 3.

Mr. S. K. Malik, counsel for respondent No. 4 to 7.

**CORAM**

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



**ORDER**

(per Hon'ble Mr. Gopal Singh)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicants have prayed for quashing the impugned notification dated 27.02.1998(Annexure A-1), and for a direction to the respondents to issue revised notification for holding the selection to the post of Chief Goods Supervisor(C.G.S., for short), in the pay scale of Rs.2,000-3,2000, in the light of the law laid down by Hon'ble the Apex Court and further that the names of the employees belonging to the reserved community promoted under Reservation Roster may be deleted from the zone of consideration and other general category employees be called for selection in lieu thereof..

*Gopal Singh*

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2. Undisputed facts of the case are that the impugned order dated 27.02.1998(Annexure A-1), is a notification for selection to the post of C.G.S. in the pay scale of Rs.2,000-3,2000/6,500-10,500. In this notification, the selection is proposed for 6 posts of C.G.S., out of which 2 posts have been reserved for Scheduled Caste category candidates. There are only 13 posts in the cadre of C.G.S. and out of which 4 posts were manned by Scheduled Caste Candidates and 4 posts by Scheduled Tribe Candidates whereas, only 2 posts come to the share of Scheduled Caste and one post comes to the share of Scheduled Tribe category as per the Reservation Policy. In these circumstances, the selection is being challenged by the applicants on the ground that no post can be declared as reserved in the present selection. It is also admitted by all the parties that only written test has been held for the selection as scheduled but the supplementary test has been postponed and that the supplementary test as well as viva voce are yet to be conducted. Learned counsel for private respondent No. 4 to 7 has adopted the reply of the official respondents.

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

4. In the latest judgment in Ajit Singh-II case ( 1999 SCC (L&S) 1239 ), Hon'ble the Supreme Court have held that once the percentage reservation has been filled up, vacancy based roster would cease to be operative and instead post based roster would be

*Lopals*

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operative. It has further been held that promotion made in excess of prescribed reservation percentage prior to 01.04.1997 would be treated as ad-hoc and would be regularised only when their turn comes as per their seniority. It has further been held that promotions in excess of reservation percentage made after 01.04.1997 would be liable to be reversed. The Hon'ble Supreme Court has also propounded the catch up principle under which a general category candidate who catches up with a junior reserved category candidate promoted earlier to general category candidate, will be senior to such reserved category candidate unless, the reserved category candidate has further moved up to a higher scale.

5. In the instant case, there are only 13 posts in the cadre of C.G.S. and admittedly only 2 posts for Scheduled Caste and one post for Scheduled Tribe category can be reserved in the cadre of 13 posts. It is admitted by the respondents that presently 4 posts are manned by Scheduled caste candidates and 4 posts are manned by Scheduled Tribe candidates in the cadre of 13 posts. Thus, there has been excess representation of the SC/ST candidates in this cadre and, therefore, we are firmly of the view that no post could be declared as reserved in the present selection as per the law laid down by Hon'ble the Supreme Court. In the light of catch up principle enunciated by Hon'ble the Supreme Court as mentioned above, the general category candidate would be treated as senior to the reserved category candidate who had been promoted earlier because of reservation roster. In the light of above discussion

*Leopold J.*

we find that there is merit in this application and  
the same deserves to be allowed. Accordingly, we  
pass the order as under :-



"The OA is allowed. Impugned order dated 27.02.1998(Annexure A-1) is quashed and set aside. Respondents are directed to observe the law laid down by Hon'ble the Supreme Court in Ajit Singh-II case in regard to reservation of post for SC/ST, in conducting the selection for the post of Chief Goods Supervisor. No costs."

*(Signature)*

( GOPAL SINGH )  
Admin. Member

*(Signature)*

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

P./C.