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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH JODHPUR.

OA No.193/2001

Date of order: 24.8.2001

with

MA No.136/2001

1. All India Scheduled Castes/Scheduled Tribes Railway Employees Association (Bikaner Division) through its Secretary Shri Rajpal Ahlawat aged 47 years Chief Trains Clerk, Control Office, Resident of quater No.T 87A/2, Bikaner.
2. Shri Tulsi Ram Meena s/o Shri Kalyan Mal Meena, Aged 45 years, Chief Controller, Control Office, Resident of T-42-A, Railway Colony, Behind Old Goods-Shed, Bikaner.
3. Shri Bhag Chand Meena S/o Shri Bhagwana Ram, Aged 46 years, Chief Goods Supervisor, Hanumangarh Jn. Resident of quarter No. T-50/B, Traffic Railway Colony, Hanumangarh Junction.
4. Shri Jagdish Prasad S/o Shri Shyamal, Aged 54 years, Office Superintendent Gd-II Commercial Branch, DRM Office, Resident of 3/37, M.P. Nagar, Lalgarh, Bikaner.
5. Shri Ram Niwas S/o Shri Chhotu Ram, Aged 45 years, 'A' Spl Driver, Resident of Railway Colony, Churu.

....APPLICANTS

VERSUS

1. Union of India, through General Manager, Northern Railway, Headquarter Office, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Bikaner Division Bikaner.
3. Senior Divisional Personnel Officer, Northern Railway, Bikaner Division, Bikaner.
4. Secretary Railway Board, Rail Bhawan, New Delhi.

... RESPONDENTS

*Capacit*

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Mr. Y.K. Sharma, counsel for the applicant.

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 a direction to the respondents to amend the seniority list filed at Annexure A/1, Annexure A/2 and Annexure A/3 in accordance with Para 319A of IREM Vol-I.

2. Undisputed facts of the case are that Hon'ble the Supreme Court held by their judgment dated 12.9.96 in AKHIL BHARTIYA SOSHIT KARAMCHARI SANGH AND ANOTHER VERSUS UNION OF INDIA- 1996 SCC (L&S) 1346-that promotion of reserved category candidate made prior to 10.2.95 would be held legal and honoured. Subsequently in Ajit Singh II case the complete law of reservation has been reviewed and it has been held that reserved category candidates promoted in excess of prescribed percentage of reservation prior to 1.4.1997 would continue to hold the promotional post on ad hoc basis till their regularisation on their term. Reserved category candidates promoted in excess of prescribed percentage after 1.4.1997 would be liable to be reverted. Hon'ble the Supreme Court has also enunciated the catch up principle. Under this principle, if a senior general category candidate is promoted to the higher post to which a junior reserved category candidate has already been promoted, the senior general category candidate

*Gopal Singh*

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would regain seniority over the junior reserved category candidate. In this view of the matter, the cut off date of 10.02.1995 becomes redundant. Thus, if at any point of time a general candidate catches up with a reserved category candidate, the seniority list of that cadre would be revised and the general category candidate would regain his seniority over the reserved category candidate.

3. The contention of the applicants is that the Railway Board had vide Printed Serial No. 11593/98 introduced Para 319A in the IREM Vol. I and the provisions of this Para had been made effective from 10.2.95 implying thereby that promotions of reserved category candidates made prior to 10.2.95 would not be disturbed. Relying on this provision applicants' contend that their seniority cannot be disturbed, hence this application.

4. As has been pointed out above, Hon'ble the Supreme Court in their subsequent judgment in Ajit Singh II case have enunciated the catching up principle according to which a senior general category candidate if catches up with a reserved category candidate, he, the senior general reserved category candidate will regain his seniority over the junior reserved category candidate, irrespective of the fact that the reserved category candidate was promoted from an earlier panel. Keeping in view of this law, the impugned seniority list has been prepared. In this view of the matter we do not find any force in this application and the same deserves to be dismissed.

5. The OA is accordingly dismissed in limine. Consequently, MA No. 136/2001 for joining together also stands dismissed.

Gopal Singh  
(GOPAL SINGH)  
Adm. Member.

W  
(JUSTICE B.-S. RAIKOTE)  
Vice Chairman.

Part II and III destroyed  
in my presence on 17-5-3  
under the supervision of  
section officer as per

Section officer (Record)

BJ (84)  
Saw 10921 with son  
ADP R-2, R-3, R-4, R-5  
Saw R-2  
Saw R-3  
Saw R-4.