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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 44/2009

Date of decision: 07.07.2011

**CORAM: HON'BLE DR. K.B. SURESH, MEMBER (J) &
HON'BLE MR. SUDHIR KUMAR, MEMBER (A)**

Inder Sain Mahawar s/o Gurudayal ji Mahawar aged 38 years, R/o House No. 72/377, near New Apostolic Church Gandhinagar Abu road, Distt. Sirohi (Rajasthan) Presently working on the post of Assistant Loco Pilot c/o Chief Crew Controller, Loco North Western Railway, Abu Road, Ajmer Division (Rajasthan).

..... Applicant

Mr. S.K. Malik , Counsel for the applicant.

Versus

1. Union of India through the General Manager, North Western Railway, Jaipur, Rajasthan.
2. Divisional Railway Manager, North Western Railway, Ajmer Division, Ajmer, Rajasthan.
3. Divisional Railway Manager, (Establishment) N.W.R. Ajmer Division, Ajmer (Rajasthan)

..... Respondents

Mr. Salil Trivedi, counsel for respondents.

ORDER
Per Dr. K.B. Suresh, Member (Judicial)

Heard both the counsels in detail.

2. The crux of the cause is that the respondents have not complied with the requirement of the roster register and when the Tribunal having found that there may be possibility of the vacancy position being wrong ; on that basis earlier order was issued directing reconsideration of the issue.
3. Thereafter Annexure A/2 was passed wherein instead of the earlier vacancies for the Scheduled Tribe candidates now 12 vacancies are found being the short fall and backlog of vacancies not yet filled. Sh. Malik, learned counsel for the applicant, points out that

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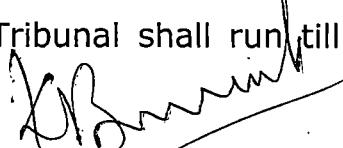
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the 4 Loco Pilot (Goods) were promoted as Loco Pilot Passenger Train. Therefore there should be resultant vacancies and enhancement of 4 posts to be available at that time itself.

4. But it is now noticed that the earlier order of the Tribunal was challenged by the respondents at High Court of Rajasthan at Jodhpur in the D.B. CWP No. 274/2009. It would appear that the applicant is also a party in the said litigation and therefore it is open to him to advance his cause by supporting the pleadings as he chooses.

5. But parties agreed that such all contentions remain the same as whether a person is in a position to point out a flaw in the register of roster point erroneously made or otherwise, and if found different, what then should be the consequence. Primarily the Tribunal had found earlier the roster to be faulty and which may require to be determined whether it is faulty or not. May be efflux of time has now led to the earlier factual matrix to be changed substantially. The Hon'ble Apex Court had time and again stated that change in ~~circumstance shall also~~ ^{change} the thought process in adjudicating by any Tribunal or Court, and it shall be reflected in the resolution of the cause. But, we also find that the connected matter is now in the seizin of the High Court of Rajasthan. It is also pointed out before us that an early posting Petition can be filed and the matter heard. Therefore we deem it proper that the matter can be effectively resolved by the High Court of Rajasthan at Jodhpur.

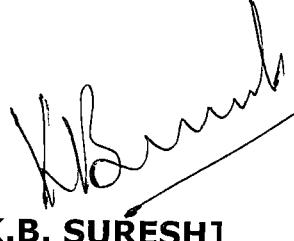
6. We declare that in anticipating Judgment of the High Court of Rajasthan the respondent shall grant or not grant the prayed for benefits to the applicant, in consonance with such Judgment. We therefore dispose of earlier interim intervention by directing that one post of industrial category be kept vacant and that the interim order granted earlier by the Tribunal shall run till resolution of the



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issue by the High Court. We therefore dispose of the O.A. in the above terms with no order as to costs.


(SUDHIR KUMAR)
MEMBER(A)


[DR. K.B. SURESH]
MEMBER (J)

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