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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

~~XXXXXX No.~~
T. A. No. 189/87

198

DATE OF DECISION

8-10-90

Vishwanath M.Rode and two Ors. Petitioners

Mr.S.A.Bobde

Advocate for the Petitioner(s)

Versus

Union of India and Ors. Respondent

Mr.Ramesh Darda

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.S.Chaudhuri, Member(A)

The Hon'ble Mr. J.P.Sharma, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

} No.


 (P.S. CHAUDHURI)
 M(A)
 8/10/80

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

Tr.189/87

1. Vishwanath Madhaorao Rode,
2. Mahadeo Ganeshan,
3. Narayan Sampatrao Tekade,
Telegraphists,
Central Telegraph Office,
Near Govt. Printing Press,
Civil Line, Nagpur. .. Applicants

vs.

1. Union of India
through
Secretary to
Ministry of Home Affairs,
New Delhi.
2. Director General,
Posts and Telegraphs,
New Delhi.
3. The General Manager,
Telecom,
Maharashtra Circle,
Bombay.
4. Shri C.D.Deshbhrata,
Opp.Kelkar Advocate Bungalow,
Tikekar Road,Dhantoli,
Nagpur.
5. Shri R.D.Ghate,
Telegraph Master,
Near Budha Mandir,
Sadar,
Nagpur - 440 001.
6. Shri S.T.Fulzele,
Telegraph Master,
Near Budha Mandir,
Sadar Bazar,
Nagpur - 440 001.
7. Shri C.Y.Tambe,
Telegraph Master,
Quarter No.7/1,
Rambagh Colony,
Medical College Chowk,
Nagpur.
8. Shri S.B.Jamankar,
Telegraph Master,
C/o.Bhagwanji Jamankar,
Dahipura Layout,
Medical College Road,
Nagpur.
9. Shri C.L.Devikar,
Telegraph Master,
Opp.T.B.Hospital,
Jagnath Budhwari,
Nagpur. .. Respondents

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Coram: Hon'ble Member(A)Shri P.S.Chaudhuri

Hon'ble Member(J)Shri J.P.Sharma

Appearances:

1. Mr.S.A.Bobde
Advocate for the
Applicants.
2. Mr.Ramesh Darda
Advocate for the
respondents.

JUDGMENT

(Per P.S.Chaudhuri, Member(A))

Date: 8.10.90

This application has come to the Tribunal by way of transfer from the Nagpur Bench of the Bombay High Court in terms of its order dated 12-9-1986, under Section 29 of the Administrative Tribunals Act, 1985, on Writ Petition No.2966/79 filed before it on 14-11-1979.

The applicants (Petitioners) are Telegraphists in the Central Telegraph Office, Nagpur. Applicants 1 and 2 claimed that they are senior to respondents No.4 to 9. However, by order dated 4-9-1979 respondents 4 to 9 were promoted as 20% Selection Grade Telegraphists overlooking the claim of applicants No.1 and 2.

Respondents 4 to 8 were promoted because they belong to the Scheduled Caste and respondent No.9 was promoted because he belongs to Scheduled Tribe. The applicants have challenged the policy of reservation for SC and ST as also the specific promotions of respondents No.4 to 9.

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2. The respondents have opposed the application by filing their reply. We have also heard Mr.S.A.Bobde, learned advocate for the applicants and Mr.Ramesh Darda, learned advocate for the respondents.

3. It is now well settled that reservation in the matter of appointment and promotions in favour of SC and ST candidates is not ultra-vires. We need only cite COMPTROLLER AND AUDITOR-GENERAL OF INDIA, GIAN PRAKASH, NEW DELHI AND ANOTHER Vs. K.S. JAGANNATHAN AND ANOTHER (1986 ATC 1)

"By reason of the provisions of Article 16(4) of the Constitution a treatment to the members of the Scheduled Castes and the Scheduled Tribes different from that given to others in matters relating to employment or appointment to any office under the State does not violate the Fundamental Right to equality of opportunity for all citizens in such matters guaranteed by Article 16(1) of the Constitution. It is now well settled by decisions of this Court that the reservation in favour of backward classes of citizens, including the members of the Scheduled Castes and the Scheduled Tribes, as contemplated by Article 16(4) can be made not merely in respect of initial recruitment but also in respect of posts to which promotions are to be made."

4. In view of this well settled legal position we see no merit in the application and

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are of the opinion that it merits dismissal.

5. This Transferred Application is accordingly dismissed. In the circumstances of the case there will be no order as to costs.

Dinesh O. S. Chaudhuri
(J.P.SHARMA) M/s (P.S.CHAUDHURI)
Member(J) at Delhi Member(A)

8/10/80