

(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No.
T.A No. 227/87

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DATE OF DECISION 9.7.1991

Mrs. Alice Vincent Bower Petitioner

Dr. V. S. Bower Advocate for the Petitioner (s)

Versus

Central Railways and other Respondent

Mr. S. K. Sanyal for R. 1, 2, 3 & 5 Advocate for the Respondent (s)
Mr. R. P. Pendharkar for R. 4

CORAM

The Hon'ble Mr. U.C. SRIVASTAVA, Vice-Chairman .

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

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

Yes

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[Signature]

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CAMP AT NAGPUR

TR.A. No.227/87

Mrs. Alice Vincent Bower
Head Mistress
R/o Vanjari Nagar,
Nagpur.

....Applicant

V/s

1. Central Railways
through General Manager,
Head Quarters, VT, Bombay.
2. Shri B.J. Rawadka
Chief Welfare Officer
Office of the Chief Personnel Officer
Central Railways
V.T. Bombay.
3. Shri Kalakar
Chairman
LAC school and Asstt. Personnel Officer
of the Divisional Railways Manager
Nagpur.
4. Mrs. Kamla B. Singrewar
Asstt. Teacher
Central Railways English
Medium school, Ajni, Nagpur.
5. Union of India through
Min. of Railways
New Delhi.

....Respondents

CORAM : HON'BLE SHRI JUSTICE U.C. SRIVASTAVA, V.C.

HON'BLE SHRI P.S. CHAUDHURI, Member (A)

Appearance:

Dr. V.S. Bower, Adv,
for the applicant

Shri S.K. Sanyal, Counsel
For respondents 1, 2, 3 and 5

Shri R.P. Pendharkar, Adv
for respondent No. 4.

ORAL JUDGMENT
(PER : U.C. SRIVASTAVA, V.C.)

DATED 9.7.1991

The applicant was appointed as Asstt. Teacher on 15.3.1955

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in the English Medium School in the Central Railway at Bhusaval and was subsequently confirmed. She is a graduate from Nagpur University and has completed her training at Jabalpur and obtained a Diploma in Education. By order dated 29.9.1981 she was asked to hand over the charge of Head Mistress of Ajni School which she was holding since October 1980. Apparently by order dated 29.9.1981 the applicant was asked to handover the charge to Respondent No.4 who has been appointed as Head Mistress. The applicant aggrieved by that order has filed Writ Petition No.2326/81 in the High Court of Judicature at Bombay, Nagpur Bench, which has been transferred to this Tribunal.

2. The applicant asserted that the respondent No.4 who is junior in length of service has been appointed as Head Mistress because of preferential treatment given to her as a member of Scheduled Tribe community and also she was not educationally qualified for the post to which she has been appointed.

3. The respondents have opposed the application by filing their counter. The Railway Administration supporting the case of Respondent no.4 has denied the averments made by the

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applicant and that the minimum qualifications for holding the post of Head Mistress are incorrect as stated in para 8 of the application. Whatever may be the position, obviously it is clear that the applicant was much more qualified and the Respondent No.4 is junior to the applicant in seniority. There is no dispute that the respondent no.4 is a member of Scheduled Tribe community and we are accepting that she is a member of S.T. community. The question that has to be decided is as to whether this post has been earmarked for Scheduled Tribe

Community. The respondents have pleaded that as per roster point the post belongs to scheduled tribe candidate. In their written reply they have stated that Miss P R Lalla was promoted as Head Mistress in 1974 and posted at Ajni against roster *No.1 and that the roster point* Point ^{for} the purpose of filling of vacancies as well as promotions has been brought into force from 27.11.1972 when the 40 point roster was promulgated vide Railway Board's letter dated 29.4.1970 and was extended for both selection and non-selection posts. The first vacancy that arose after promulgation of roster point at Ajni was when Mrs. Satidevi was promoted on the Higher scale of pay. Since it was a single vacancy arising for the first time in that year, Miss. P.R. Lalla, unreserved candidate, was promoted and the deficiency of the Scheduled Caste candidate was carried forward, as per Railway Board's letter dated 20.8.1974. The second vacancy arose when Mrs. Bachhav was promoted on 5.10.1974 as a Scheduled Caste candidate and the deficiency was made up. The third vacancy arose on 31.10.1980 at Ajni when the roster

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point no.3 was to be operated. It was offered to the senior most unreserved candidate Miss. D'Souza who was at that time working at Parel. She refused the promotion. Next to her in order of seniority came S/Shri P.B.Hadap and V.R.Verma both of whom were officiating on adhoc basis on a higher scale of Rs.440-640. These are selection posts and on finalisation of the select list Shri Verma was not qualified whereas Mr. Hadap was qualified in the selection post at which he was regularised. Thus on 24.9.1981 three vacancies were required to be filled in i.e., the first at Parel, the second at Ajni and the third at Kalyan. The post at Parel was regularised by appointing Mrs. D'Souza and the fourth point which was reserved for Scheduled Tribe at Ajni, Nagpur was offered to Respondent No.4.

4. After hearing the counsel and perusal of the record we are of the opinion that the application deserves to be allowed, as it was rightly pointed out that the applicant would be demoted to a lower post after the lapse of over a decade.

5. An objection has been raised on behalf of the respondents that the applicant can not at all be considered to be an aggrieved person as the impugned order was on the basis of the 40 point roster, applicant does not belong to scheduled Tribe community and consequently was not eligible for promotion. We have already observed that the respondents have taken the position of S.T. candidate when filling the post and consequently this objection is overruled. Another objection raised by the respondents' counsel is that there is no vacant post and the post of S.T. should go by roster point. This post cannot go by roster point. All these objections have no locus standi.

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6. The application is allowed and all consequences to follow but, in the circumstances of the case, without costs.


(P.S. CHAUDHURI)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN