

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

R.P.7/2001 IN O.A.589/94

DATED: 11/4/2001

CORAM: HON'BLE SHRI S.L.JAIN, MEMBER(J)
HON'BLE SMT.SHANTA SHASTRY, MEMBER(A)

Smt.Bina Mehboobani

... Review Petitioner

V/s.

Union of India & Ors.

... Respondents

(ORDER)

Per Smt.Shanta Shastri, Member(A)

This Review Petition has been filed by the applicant in OA-589/94 which was dismissed by order dated 30/1/2001. The petitioner has approached for review inter alia on the grounds/errors apparent on the face of the record. The main grounds taken are that

i) No seniority list was issued by the Railway Administration in respect of General Candidates including SC/ST candidates excluding the benefit of accelerated promotions granted to them. Therefore there was no question of challenging any seniority list. The actual cause of action arose based on the so called seniority list at the time of formation of panel on 29/3/94. Therefore the so called seniority list should be deemed to have been challenged with the challenge of the Impugned order.

ii) It is well established that Respondent Nos.3 & 4 in the OA are junior to the Review Petitioner by virtue of their general seniority and therefore respondent nos.3 & 4 cannot be placed on the panel dated 29/3/94 as it is to be drawn on the basis of seniority as general candidates. Respondent Nos.3 & 4 did not obtain 80% marks in aggregate and accordingly they were not outstanding. Therefore they cannot be placed on the panel against the general post in preference to the petitioner. The Tribunal holding Respondent Nos.3 & 4 as having passed in the selection and therefore having not been rightly placed on the panel in preference of the petitioner against the general post is wrong and against the rules.

iii) According to the petitioner, the Tribunal cannot ignore the legal position pronounced by ...2.

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the Hon. Supreme Court in the case of Ajit Singh V/s. wherein it has been clearly held that promotion of SC/ST candidates beyond 15% and 7 and 1/2% quota before 10/2/95 could be protected and not the seniority.

2. (iv) The respondents 3 & 4 were not actually promoted, they were only empanelled on 29/3/94 and therefore the cut off date of 10/2/1995 will not give them any benefit.

3. We have perused the grounds for review. In our view no new grounds have been raised by the applicant.

The seniority list was circulated vide letter dated 22/9/93. It was not challenged.

3. The post of Assistant Hindi Officer being a selection post the respondents 3 and 4 were considered on the basis of merit cum seniority and were placed in the panel of 29/3/94.

The panel of 29/3/94 was implemented in respect of all except for respondents 3 and 4 in the OA due to stay granted by the Tribunal. There was no other hitch to promote them.

4. The pronouncement in the case of Ajit Singh ^{II} has been duly referred to in the judgement. It was with reference to protection of seniority in cases where SC/ST employees got promoted in excess of the quota reserved for them. The respondents 3 and 4 were not included in the panel as reserved candidates. There was no question of exceeding the quota.

5. The above discussion would make it clear that all these points were taken into consideration while pronouncing the judgement. There is no error apparent or mistake. The applicant according to us is trying to reargue the case. Review application cannot be utilised for rearguing the case traversing the same ground.

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6. We therefore hold that no review of the order dated 30/1/2001 is called for. The Review Petition is accordingly rejected.

Shanta S-

(SHANTA SHASTRY)
MEMBER(A)

S.L. Jain

(S.L. JAIN)
MEMBER(J)

abp

dt. 11/4/01

order/Judgment despatched
to Applicant/Respondent (s)
on 24/4/01

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