

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

REVIEW APPLICATION NOS:30/2001, 35/2001  
and 31/2001 IN OA NOS.755/98, 831/98 & 77/99.

12/7/2001

CORAM:HON'BLE SHRI KULDIP SINGH, MEMBER(J)  
HON'BLE SMT.SHANTA SHASTRY, MEMBER(A)

Union of India and Ors.

... Review Petitioners

V/s.

Shri J.P.Shoke

... Applicants in OA No.  
755/98

Smt.R.C.Surwade and Ors.

... Applicants in OA No.  
831/98.

R.K.Raj & Ors

... Applicants in OA No.  
77/99

(ORDER)

Per Smt.Shanta Shastry, Member(A)

These review petitions have been filed by the original respondents in OA 755/98, 831/98 and 77/99 which were decided by a common order dated 30/3/2001 allowing the aforesaid OAs.

2. The main grounds advanced for review are that the Tribunal failed to appreciate the ratio laid down by the Hon. Supreme Court in the various judgements in the cases of Virpal Singh Chauhan, Ajit Singh-I and Ajit Singh-II in as much as the principles of catch up as mentioned in the said judgement had neither been considered nor noted. Also that in the case of selection or non selection post, the reserved candidate cannot count seniority on the basis of roster point promotion. Further, the Tribunal has overlooked the conclusions drawn by the Constitutional Bench of Supreme Court in the case of Ajit Singh - II wherein it was clearly laid down that while promotions made in excess of the roster before 10/2/95 can be protected, seniority cannot be protected.

3. The respondents acted in accordance with the judgement of this Tribunal dated 5/5/98. Also their action was in pursuance of the Railway Board's letter dated 15/5/98 which is in conformity with the judgement of the Hon. Supreme Court. The Tribunal also failed to take note of and to consider the order of Principal Bench dated 10/8/2000 in OA No.1491/98 wherein the validity and legality of the Railway Board's circular dated 15/5/98 has been upheld. The Tribunal held wrongly that the judgement dated 5/5/98 of the Tribunal had not reached finality because similar writ petition is pending in the High Court. However, no stay order or contradictory orders were produced before the Tribunal in this matter and therefore that judgement becomes binding.

4. The respondents have therefore prayed for a review of the order dated 30/3/2001 and to set aside the same and dismiss the OAs.

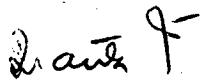
5. We have carefully gone through the grounds advanced by the respondents. It is not correct to say that the Tribunal did not take note of or ignored the ratio laid down in the various judgements of the Supreme Court as cited by the review petitioners. The Tribunal however had relied on the Interim order of the Principal Bench of the Tribunal in OA No.1491/98 whereby the Tribunal had directed to maintain statusquo as on that date i.e. on 3/9/98. Now that the review petitioners have

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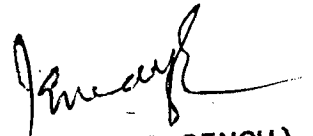
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produced the judgement of the Principal Bench of the Tribunal in the aforesaid OA No.1491/98 wherein the Railway Board's circular letter of 15/5/98 has been upheld, we need to take note of this. Therefore, we direct the OAs to be restored to the file and notices to be issued to the parties concerned.



(SHANTA SHASTRY)  
MEMBER(A)

  
(KULDIP SINGH)  
MEMBER(J)

abp