IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

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Date of Decision: 04.8.93.

1. TA 579/86
(W 2401/83

GIRRAJ PRASAD ... APPLICANT/PETITIONER.

Vs.

UNION OF INDIA & ORS. ... RESPONDENTS.

2. TA 582/86
(W 2404/83)

KHUBCHAND ... APPLICANT/PETITIONER.

Vs.

UNION OF INDIA & ORS. ... RESPONDENTS.

CORAM:

HON. MR. GOPAL KRISHNA, MEMBER (J).
HON. MR. O.P. SHARMA, MEMBER (A).

For the Applicants ... SHRI J.K. KAUSHIK.

For the Private Respdts. ... SHRI VIRENDRA LODHA.

For the Govt. Respdts. ... SHRI B.L. MEENA, CLA, Departmental Representative.

PER HON. MR. O.P. SHARMA, MEMBER (A).

These Writ Petitions filed by the petitioners, named above, were transferred to this Tribunal u/s 29 of the Administrative Tribunals Act, 1985, and registered as TA 579/86 and TA 582/86. Since both the petitions involve common question of law and facts, they are being disposed of by a common order.

2. The petitioners were promoted to the post of Guard Grade-A on upgradation of certain posts of Guard Grade-B to Guard Grade-A . The promotion was granted on the basis of

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the roster points as the petitioners belong to Scheduled Caste category. Subsequently, the Govt. respondents discovered that promotion on the basis of reservations was not applicable to the upgraded posts. They, therefore, passed order dated 19.11.83 reverting the petitioners to their original post of Guard Grade-B (Scale Rs.330-560), from which they had been promoted to the upgraded post of Guard Grade-A. The petitioners are aggrieved by the said order of reversion dated 19.11.83.

3. We have heard the learned counsel for the petitioners and the learned counsel for the private respondents. Shri B.L. Meena, CLA, appeared as departmental representative on behalf of the Govt. respondents. Counsel for the Govt. respondents, if any, has not put in his appearance.

4. The issue to be decided in this case is whether reservations are applicable to appointments to the upgraded posts or Guard Grade-A. In this connection, the learned counsel for the petitioners has drawn our attention to the Railway Board's letter dated 2.8.83 (Annexure 'B'), according to which reservations for SC/STs will not apply where cadre restructuring results in en masse upgradation of posts in a particular category. However, if cadre restructuring results in partial upgradation then reservation will apply in respect of additional number of higher grade posts which become available as a result of cadre restructuring. The learned counsel for the petitioners has not been able to clarify whether any higher number of posts of Guard Grade-A became available as a result of cadre restructuring. Therefore, we are not in a position to decide the issue whether reser-

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vations to the posts of Guard Grade-A on upgradation will apply or not. However, the learned counsel for the petitioners concedes that if as a result of the general seniority of the petitioners they are entitled to be considered for appointment/promotion to Guard Grade-A, they may be granted this benefit. The learned counsel for the private respondents has no objection to this position. This position also seems to be fair and would not harm the interest of private respondents. In fact they have already been promoted, as stated by the learned counsel for the private respondents.

5. In the circumstances, we dispose of these TAs with the direction that if as a result of their general seniority the petitioners are entitled to appointment/promotion to the upgraded posts of Guard Grade-A, they may be granted the same. These TAs are disposed of accordingly, with no order as to costs.

(O.P. SHARMA)
MEMBER (A)

(GOPAL KRISHNA)
MEMBER (J)