

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

O.A. No.598/93.

Date of decision 19.10.94.

All India Non SC/ST Employees
Association and another.

....Applicants.

Vs.

Union of India & others

....Respondents.

Coram: Hon'ble Mr. Justice D.L.Mehta, Vice Chairman.
Hon'ble Mr. N.K. Verma, Administrative Member.

For the applicants - Mr. P.V.Calla, advocate.
For the respondents - Mr. Manish Bhandari, advocate.

ORDER (ORAL)

(Hon'ble Mr. Justice D.L.Mehta, Vice Chairman)

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The applicants - All India Non SC/ST Employees Association and Ramash Chandra Dewan, Chief Clerk, have filed this Application challenging the order Annexure A/1 passed by the respondents.

2. The main grievance of the applicants is against the reservation and seniority.

3. The contention of the applicants is that the order Annexure A/1 may be quashed as it is violative of the principles laid down regarding seniority. After considering the judgment delivered by the Hon'ble Supreme Court in the case of Karam Chand Vs. Haryana State Electricity Board & others reported in AIR 1989 SC 261, this Bench and other Benches of the Tribunal have held that for the purpose of seniority, the date of entry in the higher grade is relevant. If a person enters into the higher grade on account of reservation polity even then he is entitled and has a right to be considered as a regular employee on the higher grade from the date of his appointment in the higher grade and his

seniority will have to be counted from that date. Thus, there is a ~~general~~ decision on this point that one who enters into the higher grade on regular basis, may be on promotion on account of reservation, then he is entitled to claim the seniority on the basis of earlier entry in the higher grade. This Bench and other Benches of this Tribunal have also taken the view that a person who is a member of the Schedule Tribe or Schedule Caste, if he is selected not on the basis of reservation, but on the basis of general merit, then he cannot be considered as an appointee against the reserved quota and he can claim the benefit of his appointment as a general candidate though by birth he is a member of the Schedule Tribe or Schedule Caste.

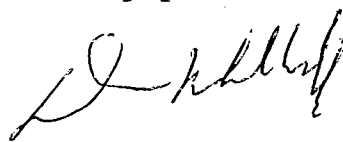
4. In the light of the above discussions, the order Annexure A/1 is clarified to this extent and we direct that the seniority should be counted accordingly.

5. It will not be out of place here to mention that this judgment will be subject to the decision of the Hon'ble Supreme Court which may be given after hearing some cases which are pending before the Hon'ble Supreme Court.

6. We will also like to clarify the position that we are not deciding the question about the vacancies and the posts at the time of implementation of the roster in this petition as the ground has not been raised in this O.A. Mr. Calla wanted to argue on this point but we have not allowed him to argue. O.A. stands disposed of accordingly.

No costs.


(N.K. VERMA)
ADMINISTRATIVE MEMBER


(D.L. MEHTA)
VICE CHAIRMAN