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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 16.4.94.

OA 188/93

GULAB CHAND MEENA

... APPLICANT.

Vs.

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

HON'BLE MR. B.B. MAHAJAN, ADMINISTRATIVE MEMBER.

For the Applicant

... SRI P.N. MATHUR.

For the Respondents

... SRI MANISH BHANDARI.

PER HON'BLE MR.B.B. MAHAJAN, MEMBER (A).

Vide letter dated 3.5.88 (Annexure A-7) the DPM Kota had invited applications for filling up the post of Ticket Collectors Grade Rs.950-1500 by selection from Group-D employees. In this letter it was communicated that the panel has to be prepared for 33 posts, out of which 5 are reserved for Scheduled Castes and 4 for Scheduled Tribes. The applicant appeared in the test and qualified the same. He also passed the training test vide Annexure A-6 dated 4.10.91. He was also further promoted to the post of DTE grade Rs.1200-2040 on adhoc basis vide order dated 23.10.92 (Annexure A-4). Thereafter, a notice was issued to the applicant on 17.3.93 (Annexure A-1) stating that while examining the representation of the staff it was noticed ^{that} assessment of one post of ST was done in excess to the number of posts actually due and an opportunity was therefore given to the applicant to represent his case before taking decision about deleting his name from the provisional panel of the Ticket Collectors grade Rs.950-1500. The applicant has filed this application against this show-cause notice.

Amr

2. The respondents have stated in their reply that as per the directions of the Hon'ble Supreme Court in J.C.Malik's

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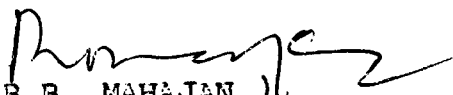
case the Railway Administration has been asked not to give promotion to ST and SC candidates in excess of the quota fixed for them. They have stated that against 33 posts the share of ST on the basis of 7½% quota comes to 3 posts while 4 posts had been given to the STs in the selection. On the representation of the staff, when this mistake came to notice, notice was issued by impugned order Annexure A-1 to correct this mistake.

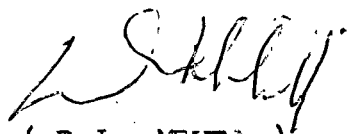
3. We have heard the learned counsel for the parties. The restriction in the interim orders of the Hon'ble Supreme Court in J.C. Malik's case was to give promotions to the members of belonging to SCs and STs upto the quota fixed for them. The share of SCs and STs obviously ^{to} be worked out ^{on} the entire strength of the cadre and not merely on the vacancies notified during a particular selection. The learned counsel for the applicant has pointed out that vide Annexure A-7, 33 vacancies were notified and it was therefore incorrect on the part of the respondents to state that there were only 33 posts to work out the share for the SC/ST on the basis of the number of posts. There is force in this contention. Obviously the total number of posts of Ticket Collectors in the Kota Division cannot be 33 when by notification dated 3.5.88 33 posts were shown to have been vacant which were to be filled by selection. The authorities have thus proceeded on the basis of a wrong interpretation of the directions of the Hon'ble Supreme Court.

4. In any case, after the applicant had not only been promoted to the post of Ticket Collector but also subsequently promoted to the higher post of TTE even though on adhoc basis. It would not be proper to revert him at this stage on the ground of this mistake alleged to have been committed.

5. In view of the above, we allow this application and quash the show-cause notice issued by Annexure A-1 dated 17.3.93. The respondents should calculate the ~~strength~~ share

of STs in the entire cadre of Ticket Collectors Rs.950-1500. In case the number of officials belonging to STs appointed to the post of Ticket Collector in this grade under reservation, i.e. after excluding those who have been promoted on merit in the order of the seniority, is within the prescribed percentage of 7½% for the entire cadre of Ticket Collectors in this grade, there would be no error in the promotion of the applicant and no further action will therefore be called for. However, if it is found on recalculation that on the relevant date the ST officials appointed to this post of Ticket Collector on the basis of reservation exceeded 7½% of total number of posts, the applicant will not be reverted and will be allowed to continue till the next vacancy falling to the share of STs arise and will be adjusted against that vacancy while a candidate belonging to general category may be promoted at that time against the vacancy reserved for STs and adjusted against the vacancy on which the applicant had been promoted. Parties to bear their own costs.


(B.B. MAHAJAN)
MEMBER (A)


(D.L. MEHTA)
VICE CHAIRMAN