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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00089/2014 &
M.A. No.060/00711/2014

Date of Decision :17.08.2015

**CORAM: HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER
HON'BLE DR. BRAHM A. AGRAWAL, JUDICIAL MEMBER**

1. All India Equality Forum (Regd.) through its Zonal Secretary, Sh. Jai Pal Singh Phogat, son of Sh. Jage Ram Phogat, age 51 years, working as Tech-I in the office of Rail Coach Factory, Kapurthala, Punjab.
2. Rajesh Kumar Saini, son of Jai Bhagwan, working as JE/MW in the office of Rail Coach Factory, Kapurthala, Punjab.
3. Krishan Pal, working as Tech-I TR in the office of Rail Coach Factory, Kapurthala.
4. Pal Singh
5. Pritam Singh
6. Naresh Kumar
7. Satish Kumar

Applicants no.4 to 7 are working as Tech-I (Shell) in the office of Rail Coach Factory, Kapurthala).

Applicants

Versus

1. Union of India through Chairman, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, Rail Coach Factory, Kapurthala (Pb.).
3. Chief Personnel Officer, Rail Coach Factory, Kapurthala (Pb.)
4. Sanjeev, son of Sh. Kumar Chand
5. Baljit Ram, son of Sh. Mam Raj
6. Samuel Tuti, son of Sh. Johan Tuti

Respondents no.4 to 6 are working as JE / MW in the office of Rail Coach Factory, Kapurthala, Punjab.

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7. Devta Parsad, working as Tech-I TR in the office of Rail Coach Factory, Kapurthala.
8. Harish Chander.
9. Ranjit Singh
10. Phool Chand
11. Nani Gopal Dass
12. Surjit Singh
13. Kesar Singh
14. Vijay Kumar
15. Raj Kumar
16. Nirmal Singh
17. Rattan Singh
18. Rattan Singh
19. Kuldeep Raj
20. Prabhu Sahay Mundu
21. Alen Barla
22. Jagan Nath Deogam
23. Balwinder Singh
24. Tarvinder Singh
25. Piar Chand
26. Nirbandh Purty
27. Bilken Kandulan
28. Shri Krishan
29. N.C. Hembram

Respondents no.8 to 29 are working as Tech-I (Shell) in the office of Rail Coach Factory, Kapurthala.

30. All India SC/ST Railway Employees Association, Rail Coach Factory, Kapurthala through its Zonal Secretary, Ranjit Singh.

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Respondents

Present: Mr. Arvind Galav, proxy for Mr. Dinesh Kumar, counsel for the applicants

Mr. Yogesh Putney, counsel for respondents no.1 to 3

None for respondents no.4 to 29

Mr. N.P. Mittal, counsel for respondent no.30.

O R D E R

HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

"8 (i) Para 9 of RBE order dated 08.10.2013 (Annexure A-1) be declared illegal, arbitrary and discriminatory as against the settled law by the Hon'ble Supreme Court.

(ii) The action of the respondents in promoting junior SC/ST employees by ignoring the applicants (who belongs to General category and are senior to SC/ST employees) vide impugned orders dated 15.01.2014 (Annexure A-2), 16.01.2014 (Annexure A-4) and 16.01.2014 (Annexure A-6) is illegal be declared illegal.

(iii) The respondents be directed to promote the applicants in the restructured posts of Senior Section Engineer, Senior Tech (TR) and Senior Tech (Shell) in accordance with their seniority as law laid down by the Apex Court in the case of M. Nagaraj (supra) and order passed by Principal Bench in OA No.2211/2008, decided on 02.12.2010."

2. Written statement has been filed on behalf of respondents no.1 to 3 on 07.07.2014.

3. Reply filed on behalf of respondents no.4 to 29 on 03.09.2014.

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When the matter came up for consideration today i.e. 17.08.2015, it was brought to our notice that a similar matter had been decided vide judgment dated 27.07.2015 in OA No.060/00468/2014 and OA No.060/00494/2014 wherein it had been held as follows:-

"21. Be that as it may, since the designation as well as the scale of pay improves when a person moves from the level of Technician Grade I to Senior Technician, this has to be construed as promotion. The DLMW, Patiala, falls within the jurisdiction of Punjab and Haryana High Court and it has clearly been held in Lacchmi Narain Gupta (supra) that reservation is not applicable in promotion. In Karan Singh (supra), the Principal Bench had held as follows:-

"19. As far as OA No. 3623/2011 is concerned, we quash and set aside the impugned orders dated 09.08.2011 and 23.08.2011. We also declare that the action of the respondents in applying reservation against the upgraded posts on account of the restructuring of Group B and C cadre is illegal and wrong. Consequently, the respondents are directed to restore the promotion of the applicants existed before passing the aforesaid impugned orders. The respondents shall also pass appropriate order in implementation of the aforesaid directions."

While recording its order dated 13.1.2015 in Ravi Shankar Singh Vs. UOI, the Principal Bench has observed in para 7 as follows:-

"7. We have applied our mind to the pleadings and the contentions raised by the learned counsel representing the applicants on the issues as mentioned above, but are of the view that once, in brevity, it is the case of the applicants that when no compliance of pre-conditions as spelled out in M. Nagaraj's case has been done, reservation in promotion with accelerated seniority shall have to be worked in the way and manner as per the law settled earlier on the issue. If that be so, we need not have to labour on the issues raised by the applicants, as surely, if the position is already settled, the only relevant discussion and adjudication in this case can be and should be confined to non-observance of the pre-conditions for making accelerated promotions as valid. We have already held above that the railways have not worked out or even applied their mind to the pre-conditions as mentioned above before giving effect to the provisions of Article 16(4A), and for that reason, circular dated 29.2.2008 vide which the seniority of SC/ST railway servants promoted by virtue of rule of reservation/roster has to be

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regulated in terms of instructions contained in Board's letter dated 8.3.2002 and 13.1.2005, has to be quashed."

Hence, the provision of reservation (Para 9 of RBE No. 102/103 dated 8.10.2013) cannot be applied by the respondents. Therefore, these OAs succeed and the respondents are directed to carry out the restructuring of the technical cadres in DMW, Patiala, without giving effect to reservation while placing the eligible Technicians Grade I in the cadre of Senior Technicians to fill the vacancies in this cadre."

5. Hence, the present OA is also disposed of with the same observations as above as the restructuring of cadres as per this OA relates to Rail Coach Factory, Kapurthala that also falls within the jurisdiction of the Hon'ble High Court and Lachmi Narain Gupta (supra) applies here also.

6. No costs.

(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

(DR. BRAHM A. AGRAWAL)
JUDICIAL MEMBER

Place: Chandigarh
Dated: 17.08.2015

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