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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Date of decision: 27.10.2016

...
**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

...
I. OA No. 060/00563/2014

1. Manoj Arora S/o Sh. Arjun Dev, aged 34 years, working as Goods Guard, O/o Station Superintendent, Rewari, R/o House No.5311, Mohalla Nalbanda, Rewari.
2. Manoj Kumar S/o Sandeshwar Prasad, aged 45 years, working as Goods Guard, O/o Station Superintendent, Hissar.
3. Kewal Krishan S/o Sh. Madan Lal Khanna, aged 55 years, working as Senior Goods Guard, O/o Station Superintendent, Hissar, R/o Block No.116, Quarter No.B, Railway Colony, Hissar.

...**APPLICANTS**

BY ADVOCATE : Sh. Rohit Seth.

VERSUS

1. Union of India through Divisional Railway Manager, North Western Railway, DRM Office, Bikaner.
2. Snr. Divisional Personnel Officer, North Western Railway, DRM Office, Bikaner.
3. Union of India, through Secretary Railway Board, Rail Bhawan, New Delhi.
4. Nathu, working as Senior Goods Guard, O/o HQ Surat Garh.
5. Sobhram Lal, working as Senior Goods Guard, O/o HQ Hanuman Garh.
6. Bhanwar Lal (J), working as Senior Goods Guard, O/o HQ Hanuman Garh.
7. Bhanwar Lal (G), working as Senior Goods Guard, O/o HQ Bikaner.
8. Ram Prakash, working as Senior Goods Guard, O/o HQ Rewari.
9. Tara Chand, working as Senior Goods Guard, O/o HQ Hissar.

10. Om Parkash, working as Senior Goods Guard, O/o HQ Hanuman Garh.
11. Kartar Singh, working as Senior Goods Guard, O/o HQ Hanuman Garh.
12. Puran Lal Meena, working as Senior Goods Guard, O/o HQ Hanuman Garh.
13. Brijman Meena, working as Senior Goods Guard, O/o HQ Hisar.
14. Raj Kumar Meena, working as Senior Goods Guard, O/o HQ Hisar.
15. Om Parkash Meena, working as Senior Goods Guard, O/o HQ Chuhru.
16. Ram Kishan, working as Senior Goods Guard, O/o HQ Chuhru.
(Respondents no.4 to 16 are junior to Applicants no.1 & 2)
17. Bhanwar Lal Panwar, working as Passenger Guards, O/o Station Superintendent Rewari.
18. Ravinder Singh, working as Passenger Guards, O/o Station Superintendent, Hisar.
19. Ratan Lal Meena, working as Passenger Guards, O/o Station Superintendent, Rewari.
(Respondents no.17 to 19 are junior to applicant no.3)

...RESPONDENTS

BY ADVOCATE : Sh. Lakhinder Bir Singh, for official respondents.
None for respondent for respondent no. 4 to 8, & 10 to 18.
Respondent no. 9 & 19 Exparte.

II. OA No. 060/00651/2014

1. Narain Singh S/o Sh. Kali Ram, aged 57 years, working as Station Master, O/o Station Jatusaha, District Rewari, Haryana.
2. Sh. Rajender S/o Ram Bilash, aged 55 years, working as Station Master, O/o Station Hisar, District Hisar.
3. Vijay Pal S/o Sh. Mahadev Prasad, aged 57 years, working as Station Master, O/o Station Kacanaur, District Rohtak, Haryana.

4. Bhimchand S/o Sh. Hans Raj, aged 59 years, working as Station Master, O/o Station Shergarh, District Bathinda, Punjab.
5. Ved Pal Banal S/o Sh. Sukh Dev Banal, aged 59 years, working as Station Master, O/o Station Hansi, District Hisar, Haryana.
6. Bhupendra Singh S/o Sh. Bhuda Ram, aged 59 years, working as Station Master, O/o Station Raman, District Bathinda, Punjab.

...APPLICANTS

BY ADVOCATE: Sh. Rohit Seth.

VERSUS

1. Union of India, through Secretary Railway Board, Rail Bhawan, New Delhi.
2. Union of India through Divisional Railway Manager, North Western Railway, DRM Office, Bikaner.
3. Senior Divisional Personnel Officer, North Western Railway, DRM Office, Bikaner.
4. Narender Kumar S/o Sh. Hari Singh, aged 54 years, working as Station Superintendent, O/o Station Bamala, District Bhiwani, Haryana.
5. Rajendra Singh A' S/o Sh. Ant Singh, aged 51 years, working as Station Superintendent, O/o Station Bikaner, Rajasthan.
6. Tola Ram S/o Sh. Rameshwar Lal Kathik, aged 44 years, working as Station Superintendent, O/o Station Ratangarh, Rajasthan.
7. Daya Shankar Paswan S/o Sh. Tulsi Ram, aged 43 years, working as Station Superintendent, O/o Station Dhirera, Rajasthan.
8. Ziley Singh S/o Sh. Kishan Singh, aged 54 years, working as Station Superintendent, O/o Station Jatusana, District Rewari, Haryana.
9. Baboo Lal Meena S/o Sh. Jhandu Ram, aged 47 years, working as Station Superintendent, O/o Station Rajiasar, District Suratgarh, Rajasthan.

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10. Roop Chand Meena S/o Sh. Heera Lal Meena, aged 54 years, working as Station Superintendent, O/o Station Dudhwa Ahara, District Churu, Rajasthan.
 11. Mahabir Singh Meena S/o Sh. Shisupal Singh, aged 49 years, working as Station Superintendent, O/o Station Rampura Beri, District Bhiwani, Haryana.
 12. Mahipal Singh S/o Sh. Pralhad Ram Meena, aged 42 years, working as Station Superintendent, O/o Station Sangaria, District Hanuman Garh, Rajasthan.
 13. Bola Ram S/o Sh. Bhagwanan, aged 53 years, working as Station Superintendent, O/o Station Kalam Wali, District Sirsa, Haryana.
 14. Chattru Ram S/o Sh. Rewa Ram, aged 54 years, working as Station Superintendent, O/o Station Gajsinghpur, District Ganganagar, Rajasthan.
 15. Kishori Lal S/o Sh. Nathi Mal, aged 57 years, working as Station Superintendent, O/o Station Pipran, District Suratgarh, Rajasthan.
 16. Inder Raj Singh S/o Bhansi Ram, aged 47 years, working as Station Superintendent, O/o Station Manderu, District Bhiwani, Haryana.
 17. Ram Parsad Meena S/o Sh. Tatan Ram, aged 54 years, working as Station Superintendent, O/o Station Dhirera, District Bikaner, Rajasthan.

All the private respondents are working under respondent no.2.

...RESPONDENTS

BY ADVOCATE : Sh. Lakhinder Bir Singh, for official respondents.
Respondents no. 4, 5 & 8 to 17 Ex-parte.

ORDER (ORAL)**HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-**

1. Both the cases involve identical facts and points of law and as such these have been taken up for final disposal by a common order. For the facility of convenience, facts have been taken from OA No. 060/00563/2014 (**Manoj Arora & Ors. Vs. U.O.I & Ors.**).
2. By means of present O.A, the applicants seek quashing of letter/RBE No. 102/2013 dated 08.10.2013 vide which the respondents have continued with policy of reservation for SC/ST's in promotion. The applicants also seek quashing of order dated 02.06.2014 vide which Senior Divisional Personnel Officer, NWR, Bikaner has promoted 54 persons, who are junior to the applicants. They have further sought issuance of a direction to the respondents to promote applicants no. 1 and applicant no. 2 to the post of Senior Goods Guard and applicant no. 3 to the post of Passenger Guard from due date with all consequential benefits.
3. Learned counsels for the parties are in agreement that the issue as involved in present case has already been decided by this court in O.A NO. 060/00468/2014 titled **Gurpinder Singh Vs. U.O.I & Ors.** on 27.07.2015, where this court held as under:-

"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. Nagara'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 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."

4. Learned counsel for the applicants prayed that once this issue has already settled by this court in favour of persons like the applicants, therefore, present O.As may also be allowed in above terms and a direction be issued to the respondents to promote the applicants by ignoring reservation in promotion.

5. Learned counsel for the respondents submitted that order of this court, upon which the applicants are placing reliance, has been challenged before the Hon'ble jurisdictional High Court in CWP No. 15782/2015 etc, by the respondents which has been admitted. He fairly submitted that there is no stay in those writ petitions.
6. Be that as it may, order dated 27.07.2015 passed the in case of Gurbinder Singh (supra) still holds the field, therefore, we are in agreement with the submissions made at the hands of the applicants that the petition deserves to be allowed in same terms and accordingly, we dispose of the present O.As in terms of the decision rendered in case of Gurbinder Singh (supra). Since writ petition is pending before the Hon'ble High Court, the parties will abide by the decision to be given by the Hon'ble High Court in the pending writ petition.

7. No costs.

(UDAY KUMAR VARMA)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 27.10.2016.

'jk'

प्रमाणित सत्य प्रतिलिपि / Certified True Copy

अनुमान पत्रिका (नम) / Section Officer (Publ.)

Central M. A. /

चण्डीगढ़ पीठ / Chandigarh

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