

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

- 1. Original Application No.200/00294/2015**
- 2. Original Application No.200/00295/2015**
- 3. Original Application No.203/00639/2015**
- 4. Original Application No.200/01073/2015**
- 5. Original Application No.203/00414/2016**
- 6. Original Application No.203/00586/2016**
- 7. Original Application No.200/00836/2016**
- 8.Original Application No.203/00848/2016**
- 9. Original Application No.200/01018/2016**
- 10. Original Application No.200/01021/2016**
- 11. Original Application No.200/00748/2017**
- 12. Original Application No.203/00751/2017**
- 13. Original Application No.200/01083/2017**
- 14. Original Application No.203/01086/2017**

Jabalpur, this Thursday, the 05th day of April, 2018

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

1. ORIGINAL APPLICATION NO.200/294/2015

1. B. Ravikant, (Loco Pilots Goods) S/o late B.S.N. Murty, Date of birth 16.1.1968, R/o HIG-B/2, Deorikhurd, H.B. Colony, Bilaspur (C.G.) 495004.
2. Nalini Ranjan Mishra, (Loco Pilots Goods) S/o Shri Braj Mohan Mishra, Date of birth 6.7.1966, R/o Rly. Qr. No.104/1, South East Central Railway, Near Samudayik Bhawan, Raigarh (C.G.) 495004.
3. P. Nageshwar, (Loco Pilots Goods), S/o Shri P. Mohan Rao, Date of birth 19.6.1970, R/o H. No.S-1/41, Annapurna Vihar, Ganesh Nagar, Bilaspur (CG) 495004

- Applicants

(By Advocate – Shri S.K. Nandy)

V e r s u s

1. Union of India through General Manager, South East Central Railway, Bilaspur – 495004 (C.G.).
2. Sr. Divisional Personnel Officer, South East Central Railway, Bilaspur – 495004 (C.G.).
3. Divisional Railway Manager, South East Central Railway, Bilaspur – 495004 (C.G.).
4. Chief Personnel Officer, South East Central Railway, Bilaspur – 495004 (C.G.).
5. R.C. Kamal, Loco Pilot (Goods) under Chief Crew Controller, South East Central Railway, Bilaspur (C.G.) 495004

- Respondents

(By Advocate – Shri Vijay Tripathi for official respondents)

2. ORIGINAL APPLICATION NO.200/295/2015

1. G.D. Choudhury, (Loco Pilots Goods) S/o late S.N. Das, aged about 45 years, R/o GAF/202, Sai Bhumi, P.O. – Torwa, Bilaspur (C.G.) 495004.
2. R.B. Sahu, (Loco Pilots Goods), S/o Late G.H. Sahu, aged about 45 years, R/o F/No. 313, Vaishali Tower, Shankar Nagar, Bilaspur (C.G.) 495004.

- Applicants

(By Advocate – Shri S.K. Nandy)

V e r s u s

1. Union of India through General Manager, South East Central Railway, Bilaspur – 495004 (C.G.).
2. Sr. Divisional Personnel Officer, South East Central Railway, Bilaspur – 495004 (C.G.).

3. Divisional Railway Manager, South East Central Railway, Bilaspur – 495004 (C.G.).
4. Chief Personnel Officer, South East Central Railway, Bilaspur – 495004 (C.G.).
5. R.C. Kamal, Loco Pilot (Goods) under Chief Crew Controller, South East Central Railway, Bilaspur (C.G.) 495004

- Respondents

(By Advocate – Shri Vijay Tripathi)

3. ORIGINAL APPLICATION NO.203/639/2015

1. Vijay Bahadur Misra s/o Shri Chandra Narayan Mishra presently working as Senior Goods Guard, r/o Block 3-C Street 1A Sector 8 Bhilai Chhattisgarh 492006.
2. Kishore Kumar Sahu s/o Alekha Chandra working as Senior Goods Guard r/o 6-C Street no 1 Sector 8, Bhilai Chhattisgarh 492006.
3. Bindeshwar Narayan Pandey s/o Late Govind Pandey working as Senior Goods Guard r/o Shanti Nagar Bhilai Chhattisgarh 492006.
4. R. Lokeshwar Rao s/o Late R. Appeal Rao working as Senior Goods Guard r/o Qtr No.78/D, Rly Colony Bhilai Chhattisgarh 492006.
5. Arun Kumar Sathua s/o Late B.C. Sathua working as Senior Goods Guard r/o Adarsh Colony Charodha Bhilai 492006.
6. A. Uma Maheshwar Rao s/o Late A.K. Murthy working as Senior Goods Guard r/o Murthy Niwas Indra Vihar Charodha, Bhilai Chhattisgarh 492006.
7. M.V.R.S Rao s/o Late Dhanraj working as Senior Goods Guard, r/o Railway Colony Charodha Bhilai Chhattisgarh 492006.

8. Amarjit Singh Kalsi s/o Late Lakhbir singh Kalsi working as Senior Goods Guard, r/o Qtr No200/01 Railway Engineering Colony Phaphadih Raipur Chhattisgarh 492008.
9. T.S. RAo s/o Late T.V. Rao working as Senior Goods Guard r/o Qtr No LIG-89, Deendayal Colony, Padumn Nagar Sector 3 Bhilai Chhattisgarh 492006.
10. D. Shrinivas Rao s/o Late D.U. Rao working as Senior Goods Guard r/o Qtr No 368/D, Zone II BMY Charodha Bhilai 492006.
11. M.C. Shekhar s/o M.G. Murthy working as Senior Goods Guard r/o Panchsheel Nagar Charodha Bhilai 492006 - **Applicants**

(By Advocate – Shri A.V. Shridhar)

V e r s u s

1. Union of India through the Secretary, Ministry of Railways, Rail Bhawan, Rafi Marg, New Delhi – 110001.
2. General Manager, South East Central Railway, New GM Building, Bilaspur, Chhattisgarh – 495004.
3. Chief Personnel Officer, DRM Office South East Central Railway, Raipur Chhattisgarh 492008.
4. Senior Divisional Personnel Officer, DRM Office, South East Central Railway, Raipur Chhattisgarh 492008.
5. Cherukupalli Prasad as Senior Goods Guard O/o Chief Yard Master, Bhilai Marshalling Yard, Bhilai Chhattisgarh 492006.
6. Anil Kumar working as Senior Goods Guard O/o Chief Yard Master, Bhilai Marshalling Yard, Bhilai Chhattisgarh 492006.
7. A.K. Daharia as Senior Goods Guard, O/o Chief Yard Master, Bhilai Marshalling Yard, Bhilai Chhattisgarh 492006.
8. Sandesh Kumar as Senior Goods Guard, O/o Chief Yard Master, Bhilai Marshalling Yard, Bhilai Chhattisgarh 492006

- Respondents

(By Advocate – Shri Vijay Tripathi for respondents Nos.1 to 5 and Shri B.P. Rao for respondents Nos.6 to 8)

4. ORIGINAL APPLICATION NO.200/1073/2015

1. Sanjay Gupta, S/o Santosh Kumar Gupta, Senior Assistant Loco Pilot, DOB : 01.07.1980, R/o C/o Vijay Ku. Gautam, Pushpraj Colony, Gali No. 5 B, Satna, M.P.
2. Manmohan Kushwaha, S/o Late Ram Sanehi, Senior Assistant Loco Pilot, DOB : 20.07.1980, R/o C/o Vijay Ku. Gautam, Pushpraj Colony, Gali No.5B, Satna, M.P.
3. Pramod Kumar Upadhyay, S/o Shri Naval Kishor Upadhyay, Senior Assistant Loco Pilot, DOB : 03.02.1983, R/o C/o Gauri Shankar Tripathi, Paschim Med, Jagatdev Pond, Satna, M.P.
4. Naval Kishor, S/o Shri Kamal Kishor Prasad, Senior Assistant Loco Pilot, DOB : 25.11.1984, R/o C/o Jawahar Lal Jain, Pushparaj Colony, Behind Khajuraho Hotel, Satna, M.P.
5. Shashi Shekhar, S/o Shri Braj Bihari Singh, Senior Assistant Loco Pilot, DOB : 20.05.1986, R/o C/o Vijay Ku. Gautam, Pushpraj Colony, Gali No. 5B, Satna, M.P.
6. Subhash Chandra Singh, S/o Shri Harinandan Singh, Senior Assistant Loco Pilot, DOB : 01.01.1985, Working in the O/o CCCOR Office, West Central Railway, Satna, M.P.
7. Vivek Kumar Sharma, S/o Shri Ramdas Sharma, Senior Assistant Loco Pilot, DOB : 15.07.1981, R/o CCCOR Office, West Central Railway, Satna, M.P.
8. Abhishek Kumar, S/o Shri Shrivardhan Prasad, Senior Assistant Loco Pilot, DOB : 15.10.1988, R/o C/o Arvind Kushwaha, H. No.10/11, Ramvihar Colony, Gali No.1, Satna, M.P.
9. Dilip Kumar, S/o Shri Jogendra Prasad Singh, Senior Assistant Loco Pilot, DOB : 02.05.1984, Working in the O/o CCCOR Office, West Central Railway, Satna, M.P.

10. Arun Kumar Singh, S/o Shri Raja Ram Singh, Senior Assistant Loco Pilot, DOB : 24.06.1985, working in the O/o CCCOR Office, West Central Railway, NKJ, Katni, M.P.
11. Shividhari Singh, Senior Assistant Loco Pilot, DOB : 16.02.1984, Working in the O/o CCCOR Office, West Central Railway, NKJ, Katni, M.P.
12. Raviranjan Kumar, S/o Shri Raj Vallabh Prasad, Senior Assistant Loco Pilot, DOB : 15.02.1985, R/o CCCOR Office, West Central Railway, NKJ, Katni, M.P.
13. Rakesh Kumar Yadav, S/o Shri Mahadev Prasad Yadav, Senior Assistant Loco Pilot, DOB : 05.11.1980, Working in the O/o CCCOR Office, West Central Railway, Satna, M.P.
14. Shailendra Singh, S/o Shri Parasnath Singh, Senior Assistant Loco Pilot, DOB : 09.12.1984, Working in the O/o CCCOR Office, West Central Railway, Satna, M.P.
15. Anand Murari, S/o Shri Rampravesh Singh, Senior Assistant Loco Pilot, DOB : 01.01.1979, R/o C/o Vijay Kumar Gautam, Pushpraj Colony, Gali No.5, Satna, M.P.
16. Anuj Nath, S/o Shri Goraknath, Senior Assistant Loco Pilot, DOB : 18.01.1986, Working in the O/o CCCOR Office, West Central Railway, Satna, M.P.
17. Satish Kumar Sahu, S/o Dalchand Sahu, Senior Assistant Loco Pilot, DOB : 29.06.1978, R/o 195 Bhagat Singh Ward, Panagar District, Jabalpur, M.P.
18. Vivek Mehloniya, S/o Shri Harprasad Mehloniya, Senior Assistant Loco Pilot, DOB : 18.10.1978, R/o H. No. 1749, Ranidurgawati Ward, Radha Kunj, Jabalpur, M.P.
19. Manish Chakrawarti, S/o Shri Suresh Chkrawarti, Senior Assistant Loco Pilot, DOB : 09.06.1983, Working in the O/o CCCOR Office, West Central Railway, Jabalpur, M.P.

- Applicants

(By Advocate – Shri S.K. Nandy)

V e r s u s

1. Union of India through its General Manager, West Central Railway, Indira Market, Jabalpur, M.P.
2. Divisional Railway Manager (P), West Central Railway, Jabalpur Divison, Jabalpur, M.P.
3. Kamlesh Prasad, S/o Shri Ayodhya Prasad, Loco Pilot Shunter – II, O/o CCCOR, West Central Railway, NKJ, Katni, M.P.
4. Satish Kumar, S/o Shri Raghuver Prasad Meena, Loco Pilot Shunter – II, O/o CCCOR, West Central Railway, NKJ, Katni, M.P

- Respondents

(By Advocate – Shri Vijay Tripathi for official respondents)

5. ORIGINAL APPLICATION NO.203/414/2016

1. Jitendra Kumar working as Sr. Asst Loco Pilot S/o Shri Krishna Pandit, R/o Kripal Nagar, Street No.2, Near Sadbhavana Chowk, Kohka, Bhilai, Distt – Durg (C.G.) 490023.
2. Devendra Kumar working as Sr. Asst Loco Pilot, C/o Vivekanand Mesham, R/o Near Ganpati Homeo Clinic, GE Road, Charoda, Bhilai – 490024.
3. H.M. Pundeer working as Sr Asst Loco Pilot s/o K.K. Pundeer, R/o Sr MIG 819, World Bank Colony, Dhancha Bhawan, Bhilai, Distt – Durg (C.G.) 490024.
4. Deepak Kumar working as Sr Asst Loco Pilot S/o Shri Puna Ram Janghel R/o Shikashak Nagar Bajrang Para Kohka, Bhilai Nagar, Distt – Durg (C.G.) 490023.
5. A.K. Bhagat working as Sr Asst Loco Pilot S/o Shri T.C. Bhagat R/o Uttar Vasundhara Nagar, Bhilai – 3, Distt – Durg (C.G.) 490021.

6. Tejram Deshmukh working as Sr Asst Loco Pilot S/o Khornahara Ram Deshmukh R/o Shyam Nagar Risali, Bhilai, Post – Civic Center, Distt – Durg (C.G.) 490006.
7. Hitendra Singh working as Sr Asst Loco Pilot S/o Shri Nandkumar Belchandan R/o Hitendra Kirana Store, Nevai, Post – Nevai, Bhilai, Distt – Durg (C.G.) 491107.
8. Lokesh Sahu working as Sr Asst Loco Pilot S/o Shri Naamdev Sahu R/o Plot – 33, Gandhinagar, Bhilai Nagar, Post – Neharu Nagar, Distt – Durg (C.G.) 490020.
9. Sameer Kumar Dhavale working as Sr Asst Loco Pilot S/o Shri Purushottam Dhavale R/o EWS-1791, MPHB, Industrial Estate, Distt – Durg (C.G.) 490026.
10. P Vinod Kumar working as Sr Asst Loco Pilot S/o P Venkat Rao, R/o Behind Smriddh Kunj, Samata Colony, Charoda, Distt – Durg (C.G.) 490024.
11. Prakash Singh, working as Sr Asst Loco Pilot S/o Shri J.P. Singh R/o 8/31-C Ispat Nagar, Risali, Bhilai, Distt – Durg (C.G.) 490006.
12. K.H.K. Rao working as Sr Asst Loco Pilot S/o – Shri K.J. Rao R/o BK-15/D, CS 01, Sector – 01, Bhilai, Distt – Durg (C.G.) 490001.
13. Sandeep Kumar Verma, working as Sr Asst Loco Pilot S/o Shri Manish Ram Verma R/o Nagar Palika Road, Shanti Nagar, Bhilai – 3, Distt – Durg (C.G. 0 490021.
14. Shabbir Ali working as Sr Asst Loco Pilot S/o Md Tahir Ali, R/o Gautam Nagar, Near Shiv Temple, Sec – 11, Zone – 1, Khursipar, Bhilai Distt – Durg (C.G.) 490011.
15. N. Durga Prasad working as Sr Asst Loco Pilot S/o N. Kaliprasad Rao, R/o Padum Nagar Bhilai – 3, Near Sai Mandir, Distt – Durg (C.G.) 490021.
16. Hemant Kumar working as Sr Asst Loco Pilot S/o Jhaggar Lal Nirmalkar R/o Shankar Nagar, Durg (C.G.).

17. Ravindra Kumar Yadav working as Sr. Asst Loco Pilot S/o T.R. Yadav R/o Qr 6/B, Street-31, Bhilai Nagar, Distt – Durg (C.G.) 490021.

18. Rajesh Kumar Prasad working as Sr Asst Loco Pilot S/o O.S. Prasad R/o Kushwaha Bhawan, Qr No – 850, Kadambari Nagar, Durg (C.G.) 491001.

19. M. Karunakar Rao working as Sr Asst Loco Pilot S/o M. Munnuswamy R/o EWS 2728/29, MPHB Colony, I/E Bhilai, Distt – Durg (C.G.) 490026

- Applicants

(By Advocate – Shri A.V.Sridhar)

V e r s u s

1. Union of India through the Secretary, Railway Board, Ministry of Railways, Rail Bhawan, Raisena Road, Rafi Marg, New Delhi – 110001.

2. General Manager, South East Central Railway, New GM Building, Bilaspur, Chhattisgarh – 495004.

3. Senior Divisional Personnel Officer, Divisional Office, South East Central Railway, Raipur, Chhattisgarh 492008.

4. Shri S.K. Gajbhiye working as Loco Pilot (Shunting) of Electrical (OP) O/o CCC/SECR, Bhilai – 490001.

5. Shri Chitranjan working as Loco Pilot (Shunting) of Electrical (OP) O/o CCC/SECR, Bhilai – 490001.

6. Shri Yogesh Kumar Yarda working as Loco Pilot (Shunting) of Electrical (OP) O/o CCC/SECR, Raipur – 492008.

7. Shri Avinash Paul working as Loco Pilot (Shunting) of Electrical (OP) O/o CCC/SECR, Raipur – 492008.

8. Shri Santosh Kumar Babulal working as Loco Pilot (Shunting) of Electrical (OP) O/o CCC/SECR, Bhilai – 490001.

9. Shri Rajneesh Prasad working as Loco Pilot (Shunting) of Electrical (OP) O/o CCC/SECR, Bhilai – 490001.
10. Shri Dinesh Kumar Dhokendra working as Loco Pilot (Shunting) of Electrical (OP) O/o CCC/SECR, Bhilai – 490001.
11. Shri Jaynarayan Ghritlahare working as Loco Pilot (Shunting) of Electrical (OP) O/o CCC/SECR, Bhilai – 490001.
12. Shri Rohit Kumar working as Loco Pilot (Shunting) of Electrical (OP) O/o CCC/SECR, Raipur – 492008.
13. Laxmendra Kumar Thakur working as Loco Pilot (Shunting) of Electrical (OP) O/o CCC/SECR, Bhilai - 490001 - **Respondents**

(By Advocate – Shri Vijay Tripathi for official respondents)

6. ORIGINAL APPLICATION NO.203/586/2016

1. J. Murali Krishna Das, S/o J. Surendra Nath Das aged about 38 years, working as AC Technician II/SECR r/o c/o Pramod Sharma Gali No.3 Deepak Nagar Durg 491001.
2. Manohar Gautam s/o Shri Faggu Gautam aged about 38 years working as AC Technician II/SECR R/o Urla Road Sai Nagar, Durg 491001. - **Applicants**

(By Advocate – Shri A.V. Shridhar)

V e r s u s

1. Union of India through the Secretary, Railway Board, Ministry of Railways, Rail Bhawan, Raisena Road, Rafi Marg, New Delhi – 110001.
2. General Manager, South East Central Railway, New GM Building, Bilaspur, Chhattisgarh 495004.
3. Divisional Personnel Officer, Divisional Office, South East Central Railway, Raipur, Chhattisgarh - 492008 - **Respondents**

(By Advocate – Shri Vijay Tripathi)

7. ORIGINAL APPLICATION NO.200/836/2016

1. Santosh Kumar, S/o Subhash Chandra Mandal, Assistant Loco Pilot – I, DOB : 10.08.1984, R/o Village – Kairakado, Post – Sohjana, District – Jamui, Bihar – 811305.
2. Neeraj Kumar, S/o Shri Ramjeet Singh, Assistant Loco Pilot – I, DOB: 10.08.1991, R/o Village – Gorgawan, Post – Khagul, District – Patna, Bihar – 801105.
3. Ashok Kumar Patel, S/o Shri Krishna Prasad Patel, Assistant Loco Pilot – I, DOB: 16.05.1988, R/o LIG 125, M.P. Nagar, Korba, C.B.
4. Durgesh Mishra, S/o Shri Parasnath Mishra, Assistant Loco Pilot – I, DOB: 15.07.1989, R/o Village – Joghata, Post – Daboliya Bazar Basti, Uttar Pradesh – 272141.
5. Prashant Kumar Mishra, S/o Shri Ramvibhakar Mishra, Assistant Loco Pilot – I, DOB : 09.07.1991, R/o Village – Kulupur, Post – Sikhar, District – Mirzapur, Uttar Pradesh – 231306.
6. Shailesh Kumar, S/o Dr. O.P. Dubey, Assistant Loco Pilot – I, DOB : 14.10.1988, R/o 17/830, Sidhi Sadam, Behind Ryan International School, Shanti Nagar, Jabalpur – 482002, M.P.
7. Santosh Kumar, S/o Shri Kamal Kishor Singh, Assistant Loco Pilot – I, DOB: 01.01.1982, R/o Chhotki Delha, New Colony Road – 1, Vermalya, Bihar.

- Applicants

(By Advocate – Shri S.K. Nandy)

V e r s u s

1. Union of India through its General Manager, South East Central Railway, Bilaspur, C.G. 495004.
2. Divisional Railway Manager (P), Divisional Office, South East Central Railway, Bilaspur Division, Bilaspur, C.G. 495004.

3. Sunil Kumar Ben (P.F. No. – 13AB1834), Assistant Loco Pilot – I, O/o CCC, South East Central Railway, Bilaspur, C.G. 495004.
- Respondents

(By Advocate – Shri A.S. Raizada)

8. ORIGINAL APPLICATION NO.203/848/2016

1. Abdul Imran Khan s/o Late Abdul Majid Khan, presently working as Goods Guard/SECR, r/o R.B. Mansion Near Sindhu Bhawan Torwa, Bilaspur Chhattisgarh 495001.
2. Amardeep Sharma, s/o Late H.P. Sharma, presently working as Goods Guard/SECR, H. No.33/643 Old High Court Road Behind Mamta Tent House Tikrapara Bilaspur Chhattisgarh 495001.
3. Rajesh Kumar S/o Late Manilal, aged about 40 years, presently working as Goods Guard/BSP/SECR, R/o Qr No.755/B, Railway Construction Colony, Near Ganesh Temple, Bilaspur (C.G.) 495001.
4. Tapas Kumar Sen s/o Hira Lal Sen, presently working as Goods Guard/SECR, r/o S/3-42, Annapurna Colony Bilaspur, Chhattisgarh 495001.
5. Shailendra Yadava, s/o Sachendra Singh Yadav, presently working as Goods Guard/SECR r/o Qtr No.383/1, RPF Colony Bilaspur Chhattisgarh 495001.
6. Deepak Singh Rajput s/o Prem Singh Rajput, presently working as Goods Guard/SECR r/o Devrikhurd Bilaspur Chhattisgarh 495001.
7. Ghanshyam Singh Rajput s/o Shri Narayan Ram presently working as Goods Guard/SECR, r/o Qtr No143/7, Wireless Colony, Tarbahan Bilaspur Chhattisgarh 495001.
8. D. Santosh Kumar Rao s/o D. Kameshwar Rao, presently working as Goods Guard/SECR, r/o Devrikhurd Bilaspur Chhattisgarh 495001.

9. K.V.N. Rao s/o K.P. Swami presently working as Goods Guard/SECR, r/o House No.360/14, Nazarlal Para, Sirgitti, Bilaspur Chhattisgarh 495001.
10. Bhushan Pillai S/o Late N.B. Pillai, aged about 47 years, presently working as Goods Guard/BSP/SECR, R/o MIG/A-4, Phase-II, Sagar Deep Enclave, Ameri, Usalapur, Bilaspur (C.G.) 495001.
11. Rajesh Kumar Pathode, S/o Late Rama Pathode, aged 51 years, presently working as Goods Guard/BSP/SECR R/o Chandan Awas, Near Shani Mandir, Rajkishor Nagar, Bilaspur (C.G.) – 495004.
12. Santosh Kumar – II, S/o Late Itwari Yadav, aged about 47 years, presently working as Goods Guard/BSP/SECR, R/o Qr. No.1074/1, Nurse Colony, Bilaspur (C.G.) 495004.
13. Punni Das Manikpur S/o Late Anand Das, aged about 48 years, presently working as Goods Guard/BSP/SECR, R/o White House Gali, Near Usalapur over bridge, Anand Nagar, Bilaspur (C.G.) 495001.
14. Nikhil Kumar s/o Dayanand Barnwal, presently working as Goods Guard/SECR, r/o Saheed Bhagat Jail Road, Kaidimuda, Raigarh, Chhattisgarh 496001.
15. Mohd Mumtaj s/o Mohd Sirrajuddin, presently working as Goods Guard/SECR, r/o Purani Basti, Shahdo Madhya Pradesh 484001.
16. Suresh Kumar Dhruv S/o Late Tula Ram, aged about 36 years, presently working as Goods Guard/BSP/SECR, R/o Mahima Nagar, Sirgitti Tarbhar, Bilaspur (C.G.) – 495001. - **Applicants**

(By Advocate – Shri A.V. Shridhar)

V e r s u s

1. Union of India through the Secretary, Ministry of Railways, Rail Bhawan, Raisena Road, New Delhi – 110001.

2. Secretary Department of Personnel & Training, Lok Nayak Bhawan, Khan Market, New Delhi – 110003.
3. General Manager, South East Central Railway, New GM Building, Bilaspur, Chhattisgarh 495004.
4. Senior Divisional Personnel Officer, DRM Office South East Central Railway, Bilaspur Chhattisgarh 495004.
5. Divisional Personnel Officer, DRM Office, South East Central Railway, Bilaspur Division, Bilaspur, Chhattisgarh 495004.
6. Sandeep Kumar Khudshah
7. Rupesh Kumar
8. Paras Nath
9. Hemant Kumar
10. Vivek Gaurav
11. Prakash Jangde
12. Chhabi Lal Banjare
13. Sampat Lal Milan
14. Kripa Ram Tendulkar
15. Pramod Kumar
16. Prem Lal
17. Kaushal Prasad
18. Rajesh Prakash
19. Prithvi Raj Mahavar
20. Keshav Chandra Das

21. Anil Kumar Meshram

22. Anil Kumar Meshram

23. Rohit Dhan

Respondents Nos.6 to 22 through Senior Divisional Personnel Officer, Divisional Officer, Personnel Branch, SECR, Bilaspur (C.G.) – 495004 -

Respondents

(By Advocate – Shri Vijay Tripathi proxy counsel of Shri R.N. Pusty for official respondents and Shri B.P. Rao for respondents Nos.6-8, 10-16 and 18-22)

9. ORIGINAL APPLICATION NO.200/1018/2016

1. Santosh Kumar Mandal, S/o Shri Lilo Mandal, Working under Sr. D.E.E (TRS), Bhilai as Tech. – II, Date of Birth – 12.12.1984, R/o Village – Kumhari, Post – Durgagane, District – Katihar, Bihar 803101.
2. Purushottam Sharan, S/o Ramsingh Mahto, working under Sr. D.E.E (TRS), Bhilai as Tech. – II, Date of Birth – 05.01.1982, R/o Village & Post – Singhiaghat, District – Samastipur, Bihar 803101.
3. Pradip Kumar Ranjan, S/o Shri Shionath Prasad, Working under Sr. D.E.E (TRS), Bhilai as Tech. – II, Date of Birth – 01.02.1980, R/o Village & Post – Gopalganj, District – Gopalganj, Bihar 803101.
4. Durgesh Kumar, S/o Rangbahadur Choudhary, working under Sr. D.E.E (TRS), Bhilai as Tech. – II, Date of Birth – 25.09.1989, R/o Village – Dawanpur, P.O – Karinandiya, P.S – Sasaram, District – Rohtak, Bihar 803101.
5. Shambhu Kumar, S/o Late Pramanand Singh, Working under Sr. D.E.E (TRS), Bhilai as Tech. – II, Date of Birth – 03.10.1987, R/o Village – Nagwan, Post – Bahpura, P.S – Maner, District – Patna, Bihar 800017.

6. Ganesh Rai, S/o Shyamsingh Rai, Working under Sr. D.E.E (TRS), Bhilai as Tech. – II, Date of Birth – 07.09.1981, R/o Village – Jogibada, Post – Kalawali, District – Seoni, M.P. 495557.
7. Pankaj Kumar Dhiraj, S/o Gajadhar Mahato, Working under Sr. D.E.E (TRS), Bhilai as Tech. – II, Date of Birth – 04.07.1986, R/o P.O, P.S and District – Lakhisarai, Bihar 803101.
8. Subhash Kumar, S/o Paras Nath Singh, Working under Sr. D.E.E (TRS), Bhilai as Tech. – II, Date of Birth – 03.02.1988, R/o Masona, P.O – Masona, P.S – Sanjhaval, District – Rohtak, Bihar 803101.
9. Sanjay Kumar, S/o Ramjee Prasad, Working under Sr. D.E.E (TRS), Bhilai as Tech. – II, Date of Birth – 15.10.1982, R/o Quarter No.6B, Street – 27, Sector – 4, Bhilai Nagar, District – Durg, C.G 490001.
10. Satish Kumar Srivastav, S/o Shyam Narain Srivastav, Working under Sr. D.E.E (TRS), Bhilai as Tech. – II, Date of Birth – 25.12.1983, R/o Quarter No.629 “E”, Street No. 29, Rail Nagar, Charoda, C.G 490001

- Applicants

(By Advocate – Shri S.K. Nandy)

V e r s u s

1. Union of India through its General Manager, South East Central Railway, Bilaspur, C.G. – 495001.
2. Chief Personal Officer, South East Central Railway, Bilaspur, C.G. 495001.
3. Divisional Railway Manger (Personal), South East Central Railway, Raipur Division, Raipur, C.G. – 492001.
4. Shri Ashok Kumar (Tech –II), Working under Sr. D.E.E (TRS), South East Central Railway, Bhilai, C.G 490001.
5. Shri Pratap Ku. Behra (Tech. – II), P.F No.11AC0295, O/o Sr. D.E.E (TRS), Electric Loco Shed, South East Central Railway, Bhilai, C.G. 490001.

6. Hardik Bansod (Tech. – II), P.F No.12AC0015, O/o Sr. D.E.E (TRS), Electric Loco Shed, South East Central Railway, Bhilai, C.G. 490001
- Respondents

(By Advocate – Shri Vijay Tripathi for official respondents)

10. ORIGINAL APPLICATION NO.200/1021/2016

1. Pawan Kumar Sinha, S/o Shri Punit Ram Sinha, Working under Sr. D.E.E (TRS), Bhilai as Helper – II, Date of Birth – 18.07.1979, R/o Railway Quarter No.395/A, Zone, B.M.Y, Charoda, C.G. 263629.
2. Pawan Kumar, S/o Late Shivcharan, Working under Sr. D.E.E (TRS), Bhilai as Helper – II, Date of Birth – 05.03.1982, R/o Village & Dist – Borid, Tehsil – Patan, Durg, C.G. 491001.
3. Om Prakash, S/o Matterlal, working under Sr. D.E.E (TRS), Bhilai as Helper – II, Date of Birth – 03.12.1982, R/o Ward No. 15, Camp No.1, Dalli Rajhara, District – Balod, C.G 495559.
4. Yeshwant Kumar Singh, S/o Shri Ram Awatar Singh, Working under Sr. D.E.E (TRS), Bhilai as Helper – II, Date of Birth – 01.03.1986, R/o Chakrashi, P.O – Pandey Patty, District – Buxar, C.G.
5. Omkar, S/o Shri Paltanra, Working under Sr. D.E.E (TRS), Bhilai as Helper – II, Date of Birth – 29.10.1988, R/o Dalsa Tola, Post – Sahaspur Luhara, District – Kabirdham, C.G 614203.
6. Kumari Yasmin, S/o Atharali, Working under Sr. D.E.E (TRS), Bhilai as Helper – II, Date of Birth – 07.09.1991, R/o Ward No.21, Dalli Raihara, Balod, C.G 495559.
7. Md. Ramjan, S/o Md. Abul, Working under Sr. D.E.E (TRS), Bhilai as Helper – II, Date of Birth – 25.08.1989, R/o At – Lakhan Chand, Post – Mokamaghat, P.S – Mokama, District – Patna, Bihar 800017.

8. Shailendra Kumar, S/o Yagram Vishwakarma, Working under Sr. D.E.E (TRS), Bhilai as Helper – II, Date of Birth – 20.08.1985, R/o Village – Sonouragfur, Post – Vankathawa, District – Faizabad, Bihar 800017.

9. Mahesh Chand Kashyap, S/o Jawahar Lal, Working under Sr. D.E.E (TRS), Bhilai as Helper – II, Date of Birth – 21.01.1979, R/o Village – Ratanpur, Post – Patara Bazar, District – Gorakhpur, U.P. 273001

- Applicants

(By Advocate – Shri S.K. Nandy)

V e r s u s

1. Union of India through its General Manager, South East Central Railway, Bilaspur, C.G. – 495001.

2. Chief Personal Officer, South East Central Railway, Bilaspur, C.G. 495001.

3. Divisional Railway Manager (Personal), South East Central Railway, Raipur Division, Raipur, C.G. – 492001.

4. Shri Praveen Ku. Meshram (Tech. – III), P.F No. 07AC0606, O/o Sr. D.E.E (TRS), Electric Loco Shed, South East Central Railway, Bhilai, C.G 490006.

5. Bansod Ritesh Manik Rao (Tech. – III), P.F No.13AC0856, O/o Sr. D.E.E (TRS), Electric Loco Shed, South East Central Railway, Bhilai, C.G. 490006.

6. Balkrishna Mundare (Tech. – III), P.F No. 13AC0894, O/o Sr. D.E.E (TRS), Electric Loco Shed, South East Central Railway, Bhilai, C.G 490006.

7. Amit Munda (Tech. – III), P.F No. 13AC0893, O/o Sr. D.E.E (TRS), Electric Loco Shed, South East Central Railway, Bhilai, C.G 490006

- Respondents

(By Advocate – Shri Vijay Tripathi for official respondents)

11. ORIGINAL APPLICATION NO.203/748/2017

1. Ajit Kumar Singh, S/o Late Vidya Singh, D.O.B – 13.10.1986, Mob. No. – 9752491406, R/o Beside Kushwaha Traders, Dr. Rajendra Prasad Chowk, Indira Mangar, Supela, Bhilai – 490023, District – Durg (C.G.).
2. T. Satish Kumar, S/o Shri T.B. Rao, D.O.B. – 23.07.1988, Mob.No.-9752491398, R/o Q. No.240/B, Zone-II, BMY Charoda – 490025, District – Durg (C.G.).
3. Dheeraj Kumar, S/o Shri Diwakar Prasad, D.O.B. – 03.02.1991, Mob. No. – 9752491399, R/o H.No. 909/B, Panchsheel Nagar, Charoda – 490025, District – Durg (C.G.).
4. Manoj Kumar Verma, S/o Shri Virendra Kumar Verma, D.O.B. – 12.12.1987, Mob. No. – 9752491405, R/o Indira Nagar, Hathkhoj, Bhilai – 490006, District – Durg (C.G.).
5. Ramakant, S/o Shri Bishram Sahu, D.O.B. – 21.10.1986, Mob. No. – 9752491404, R/o Plot No. 70/8, Matri Kunj, Risali, Bhilai – 490006, District – Durg (C.G.)

- **Applicants**

(By Advocate – Shri S.K. Nandy)

V e r s u s

1. Union of India through its General Manager, South East Central Railway, Bilaspur, C.G. – 495001.
2. Chief Personal Officer, South East Central Railway, Bilaspur, C.G. – 495001.
3. Sr. Divisional Railway Manager (Personal), South East Central Railway, Raipur Division, Raipur, C.G. – 492001.
4. Addl. Divisional Railway Manager, South East Central Railway, Raipur Division, Raipur, C.G. – 492001.
5. Shravan Kumar Dehriya, Sr. Asst. Loco Pilot, Electrical Department, Employee No. 11AC0559, O/o Chief Crew Controller, Bhilai Marshling Yard, Bhilai, Durg (C.G.) 490006.

- **Respondents**

(By Advocate – Shri Sapan Usrethe for official respondents)

12. ORIGINAL APPLICATION NO.203/751/2017

1. Sanjay Kumar Patel s/o Ram Gopal Patel, aged about 31 years, Posted as JE/TM/SECR/BSP, R/o R.K. Nagar, Phase-II, Plot No.242 R/A, Distt – Bilaspur (C.G.) 495004 – Mobile No. 7225021122.
2. Tikam Chand Sahu S/o Jagjivan Ram Sahu, aged about 30 years, posted as JE/TM/SECR/R, R/o H. No.736, Aadarsh Chowk, Sunder Nagar, Raipur (C.G.) 492001.
3. Vikas Kumar Rathore S/o Shri D.P. Rathore, aged about 36 years, posted as JE/TM/SECR/BSP, R/o 42/1064, Devandan Nagar-I, Seepat Road, SECL Bilaspur (C.G.) 495006.
4. Pravin Nirmal S/o Late Shri Krishna Kumar Nirmal, aged about 28 years, posted as JE/TM/SECR/R, R/o C/o Vikas Giri Goswami, Near Jhanda Chowk, Shiv Nagar, New Changorabhata, Raipur (C.G.) 492013.

- Applicants

(By Advocate – Shri A.V. Shridhar)

V e r s u s

1. The Secretary, Railway Board, Ministry of Railways, Rail Bhawan, Raisena Road, Rafi Marg, New Delhi – 110001.
2. Union of India – Through- General Manager, South East Central Railway, New GM Building, Bilaspur, Chhattisgarh – 495004.
3. Chief Personnel Officer, Divisional Office, South East Central Railway, BSP, Chhattisgarh 495004.
4. Deputy Chief Engineer, Track Machine, Third Floor, GM Office, Bilaspur (C.G.) 495004.
5. Nand Kishor, Junior Engineer/Track Machine, South East Central Railway, Raipur (C.G.) 492008.

6. Harish Kumar Lahare, Junior Engineer/Track Machine, South East Central Railway, Bilaspur (C.G.) 495004.
7. Siddharth Khobragade, Junior Engineer/Track Machine, South East Central Railway, Nagpur (M.H.) – 440001.
8. Vinod Kumar Lakra, Junior Engineer/Track Machine, South East Central Railway, Raipur (C.G.) 492008 - **Respondents**

(By Advocate – Shri Vijay Tripathi for respondents Nos.1 to 4 and Ms. Anjana Shrivastava for respondents Nos.5 to 8)

13. ORIGINAL APPLICATION NO.200/1083/2017

1. Sudarshan Dhari, S/o Late Ramjee, D.O.B. 18.03.1977, D.O.A – 07.01.2003, Mob. No. – 9752491373, R/o Q. No.2/B, Street No.6, Zone – I, Sector 11, Bhilai – 490011, District Durg (C.G.).
2. Rajesh Kumar, S/o Jogiram, D.O.B. – 16/06/1981, D.O.A. – 11.09.2008, Mob. No. – 9752491446, R/o Plot No.5, Near Dongre Colony, Padum Nagar, Charoda, Bhilai – 490025, District – Durg (C.G.) - **Applicants**

(By Advocate – Shri S.K. Nandy)

V e r s u s

1. Union of India through its General Manager, South East Central Railway, G.M. Office, Near Railway Station, Bilaspur – 495004 (C.G.).
2. Chief Personal Officer, South East Central Railway, G.M. Office, Near Railway Station, Bilaspur – 495004 (C.G.).
3. Divisional Railway Manager (P), South East Central Railway, Raipur Division (C.G.) – 492001.
4. Sr. Divisional M.E., South East Central Railway, Raipur Division, Raipur – (C.G.) – 492001.

5. Shri Ram Pratap ALP Employee No. 060T0859 through Chief Crew Controller, BIA, Bhilai – 490006.
6. Shri Sunil Kumar Chichkede ALP, Employee No. 07K60715, Bhilai Marsheing Yard through Chief Crew Controller, BIA, Bhilai – 490006.
7. Shri Devendra Kumar, Employee No. 07K60715, Bhilai Marsheing Yard through Chief Crew Controller, BIA, Bhilai – 490006.
8. Shri Arvind Kumar, Employee No.11AC657, Bhilai Marsheing Yard, through Chief Crew Controller, BIA, Bhilai – 490006.

- Respondents

(By Advocate – Shri Sapan Usrethe for official respondents)

14. ORIGINAL APPLICATION NO.203/1086/2017

1. R.N. Maurya s/o Ramhit Maurya S/o Late Lekhan Singh, presently working as ALP-1/BSP, aged about 34 years, Hemu Nagar, Distt – Bilaspur (C.G.) 495004 Mobile 9752441942.
2. Sanjeet Kumar Singh, S/o Sarju Singh, presently working as ALP-1/BSP, aged about 35 years, Devri Khurd, Distt – Bilaspur (C.G.) 495004.
3. Pawan Kumar S/o Narendra Kumar, presently working as ALP-1/BSP, aged about 32 years, Devri Khurd, Distt – Bilaspur (C.G.) 495004.
4. U.B. Barik s/o D.C. Barik Devri Khurd, presently working as ALP-1/BSP, aged about 32 years, Devri Khurd, Distt – Bilaspur (C.G.) 495004.
5. Ravindra Singh Thakur S/o Late Lekhan Singh, presently working as ALP-1/BSP, aged about 35 years, R/o H.No.38/362, in front of SAI Mandir, Hemu Nagar, Distt – Bilaspur (C.G.) 495004.

6. Yugalkishore Rathore S/o Shri Babulal Rathore, presently working as ALP-1/KRBA, aged about 26 years, R/o L-39, Housing Board Colony, Rampur, Distt – Korba (C.G.) 495677.
7. Tankesh Kumar Mahant S/o Shri Narayan Das Mahant, presently working as ALP-1/KRBA, aged about 34 years, R/o Village – Kamread, Tahsil – Champa, Distt – Janjgir Champa (C.G.) 495559.
8. Om Prakash Sahu, S/o Shri Santosh Sahu, presently working as ALP-1/BSP, aged about 28 years, R/o Ward No. 06, New Chandaniya Para, Janjgir, Distt – Janjgir Champa (C.G.) Bilaspur (C.G.) 495004.
9. Ashish Mishra S/o Shri A.K. Mishra, presently working as ALP-1/BSP, aged about 31 years, R/o Mishra Bhawan, Near Shiva Mandir, Hemu Nagar, Distt – Bilaspur (C.G.) 495004.
10. Ashish Das, S/o Shri Bapi Das, presently working as ALP-1/BSP, aged about 26 years, R/o Jr. H.I.G. 25, Devri Khurd, Distt – Bilaspur (C.G.) 495004.
11. Yadvesh Yadav S/o Shri P.D. Yadav, presently working as ALP-1/KRBA, aged about 34 years, R/o Lions Club Square, Champa, Distt – Janjgir Champa (C.G.) 495559.
12. Radheshyam Prasad S/o Shri Dev Kumar Prasad, presently working as ALP-1/BSP, aged about 29 years, R/o East Cabin, Hemu Nagar, Distt – Bilaspur (C.G.) 495004.
13. P.K. Dubey, S/o Shri Sajivan Prasad Dubey, presently working as ALP-1/BSP, aged about 32 years, R/o H. No. 17/704, Sarju Bagicha, Distt – Bilaspur (C.G.) 495004.
14. Anup Kumar Gupta, S/o Shri Dhuru Prasad Gupta, presently working as ALP-1/KRBA, aged about 32 years, R/o Pori Dahar, Near Mukti Dham, Korba, Distt – Korba (C.G.) 495677.

- Applicants

(By Advocate – Shri A.V. Shridhar)

V e r s u s

1. The Secretary, Railway Board, Ministry of Railways, Rail Bhawan, Raisena Road, Rafi Marg, New Delhi – 110001.
2. Union of India – Through- General Manager, South East Central Railway, New GM Building, Bilaspur, Chhattisgarh – 495004.
3. Chief Personnel Officer, Divisional Office, South East Central Railway, Bilaspur, Chhattisgarh 495004.
4. Senior Divisional Commercial Manager, South East Central Railway, BSP (C.G.) 495004.
5. Assistant Personnel Officer, South East Central Railway, Bilaspur (C.G.) 495004

- Respondents

(By Advocate – Shri Sapan Usrethe)

O R D E R

By Ramesh Singh Thakur, JM.

In all the Original Applications, as mentioned in the memo of the parties, the same question regarding the reservation in promotion is involved and the common arguments are being putforth by the counsel for the applicants regarding the reservation in promotion. The main contention in all the OAs are that the respondent department has not complied with the directions given in the case of **M. Nagaraj and others v. Union of India and others** (2006) 8 SCC 212 before issuing the advertisement/empanelment for reservation in promotion.

2. Heard the learned counsels for the parties.
3. The issue involved in all these Original Applications is no longer *res integra*, as the same has already been decided by the Principal Bench of this Tribunal in Original Application No.3476/2013 and other connected OAs vide order dated 22.01.2018. The order passed by the Principal Bench reads as under:

“All these batch of OAs are pertaining to the issue of reservations in promotions and hence are being disposed of by way of this common order.

2. Heard all the counsels for the parties and perused the pleadings on record.

3. In **M. Nagaraj & Ors. Vs. Union of India & Others**, (2006) SCC 212 (supra), the Constitution Bench of the Hon’ble Apex Court observed as under :-

“2. The facts in the above writ petition, which is the lead petition, are as follows.

Petitioners have invoked Article 32 of the Constitution for a writ in the nature of certiorari to quash the Constitution (Eighty-Fifth Amendment) Act, 2001 inserting Article 16(4A) of the Constitution retrospectively from 17.6.1995 providing reservation in promotion with consequential seniority as being unconstitutional and violative of the basic structure. According to the petitioners, the impugned amendment reverses the decisions of this Court in the case of Union of India and others v. Virpal Singh Chauhan and others , Ajit Singh Januja and others v. State of Punjab and others (Ajit Singh-I), Ajit Singh and others (II) v. State of Punjab and others , Ajit Singh and others (III) v. State of Punjab and others , Indra Sawhney and others v. Union of India , and M. G. Badappanavar and another v. State of Karnataka and others. Petitioners say that the Parliament has appropriated the judicial power to itself and has acted as an appellate authority by reversing the judicial pronouncements of this Court by the use of power of amendment as done by the impugned amendment and is, therefore, 83 OA No.3476/2013 and connected OAs violative of the basic structure of the Constitution. The said amendment is,

therefore, constitutionally invalid and is liable to be set aside. Petitioners have further pleaded that the amendment also seeks to alter the fundamental right of equality which is part of the basic structure of the Constitution. Petitioners say that the equality in the context of Article 16(1) connotes "accelerated promotion" so as not to include consequential seniority. Petitioners say that by attaching consequential seniority to the accelerated promotion, the impugned amendment violates equality in Article 14 read with Article 16(1). Petitioners further say that by providing reservation in the matter of promotion with consequential seniority, there is impairment of efficiency. Petitioners say that in the case of *Indra Sawhney*⁵ decided on 16.11.1992, this Court has held that under Article 16(4), reservation to the backward classes is permissible only at the time of initial recruitment and not in promotion. Petitioners say that contrary to the said judgment delivered on 16.11.1992, the Parliament enacted the Constitution (Seventy- Seventh Amendment) Act, 1995. By the said amendment, Article 16(4A) was inserted, which reintroduced reservation in promotion. The Constitution (Seventy-Seventh Amendment) Act, 1995 is also challenged by some of the petitioners. Petitioners say that if accelerated seniority is given to the roster-point promotees, the consequences would be disastrous...."

After referring to a series of authorities, the Court concluded as follows :

"121. The impugned constitutional amendments by which Articles 16(4A) and 16(4B) have been inserted flow from Article 16(4). They do not alter the structure of Article 16(4). They retain the controlling factors or the compelling reasons, namely, backwardness and inadequacy of representation which enables the States to provide for reservation keeping in mind the overall efficiency of the State administration under Article 335. These impugned amendments are confined only to SCs and STs. They do not obliterate any of the constitutional requirements, namely, ceiling-limit of 50% (quantitative limitation), the concept of creamy layer (qualitative exclusion), the sub-classification between OBC on one hand and SCs and STs on the other hand as held in *Indra Sawhney*⁵ , the concept of post-based Roster with in-built concept of replacement as held in *R.K. Sabharwal*⁸.

122. We reiterate that the ceiling-limit of 50%, the concept of creamy layer and the compelling reasons, namely, backwardness, inadequacy of representation and overall administrative efficiency are all constitutional requirements without which the structure of equality of opportunity in Article 16 would collapse.

123. However, in this case, as stated, the main issue concerns the "extent of reservation". In this regard the concerned State will have to show in each case the existence of the compelling reasons, namely, backwardness, inadequacy of representation and overall administrative efficiency before making provision for reservation. As stated above, the impugned provision is an enabling provision. The State is not bound to make reservation for SC/ST in matter of promotions. However if they wish to exercise their discretion and make such provision, the State has to collect quantifiable data

showing backwardness of the class and inadequacy of representation of that class in public employment in addition to compliance of Article 335. It is made clear that even if the State has compelling reasons, as stated above, the State will have to see that its reservation provision does not lead to excessiveness so as to breach the ceiling-limit of 50% or obliterate the creamy layer or extend the reservation indefinitely.

124. Subject to above, we uphold the constitutional validity of the Constitution (Seventy-Seventh Amendment) Act, 1995, the Constitution (Eighty-First Amendment) Act, 2000, the Constitution (Eighty-Second Amendment) Act, 2000 and the Constitution (EightyFifth Amendment) Act, 2001.

125. We have not examined the validity of individual enactments of appropriate States and that question will be gone into in individual writ petition by the appropriate bench in accordance with law laid down by us in the present case.

4. In Suresh Chand Gutam Vs. State of Uttar Pradesh and Others, AIR 2016 SC 1321, a batch of Writ Petitions were preferred under Article 32 of the Constitution of India praying to issue a direction in the nature of mandamus commanding the respondent Government to enforce appropriately the constitutional mandate as contained under the provisions of Articles 16(4A), 16(4B) and 335 of the Constitution of India or in the alternative, for a direction to the respondents to constitute a Committee or appoint a Commission chaired either by a retired Judge of the High Court or Supreme Court in making survey and collecting necessary qualitative data of the Scheduled Casts and the Scheduled Tribes in the services of the State for granting reservation in promotion in the light of direction given in **M. Nagaraj & Others v. Union of India & Others** (supra). It was held as under:-

“43. Be it clearly stated, the Courts do not formulate any policy, remains away from making anything that would amount to legislation, rules and regulation or policy relating to reservation. The Courts can test the validity of the same when they are challenged. The court cannot direct for making legislation or for that matter any kind of sub-ordinate legislation. We may hasten to add that in certain decisions directions have been issued for framing of guidelines or the court has itself framed guidelines for sustaining certain rights of women, children or prisoners or under-trial prisoners. The said category of cases falls in a different compartment. They are in different sphere than what is envisaged in Article 16 (4-A) and 16 (4-B) whose constitutional validity have been upheld by the Constitution Bench with certain qualifiers. They have been regarded as enabling constitutional provisions. Additionally it has been

postulated that the State is not bound to make reservation for Scheduled Castes and Scheduled Tribes in matter of promotions. Therefore, there is no duty. In such a situation, to issue a mandamus to collect the data would tantamount to asking the authorities whether there is ample data to frame a rule or regulation. This will be in a way, entering into the domain of legislation, for it is a step towards commanding to frame a legislation or a delegated legislation for reservation.

44. Recently in **Census Commissioner & others v. R. Krishnamurthy** a three-Judge Bench while dealing with the correctness of the judgment of the high court wherein the High court had directed that the Census Department of Government of India shall take such measures towards conducting the caste-wise census in the country at the earliest and in a time-bound manner, so as to achieve the goal of social justice in its true sense, which is the need of the hour, the court analyzing the context opined thus :-

“Interference with the policy decision and issue of a mandamus to frame a policy in a particular manner are absolutely different. The Act has conferred power on the Central Government to issue notification regarding the manner in which the census has to be carried out and the Central Government has issued notifications, and the competent authority has issued directions. It is not within the domain of the court to legislate. The courts do interpret the law and in such interpretation certain creative process is involved. The courts have the jurisdiction to declare the law as unconstitutional. That too, where it is called for. The court may also fill up the gaps in certain spheres applying the doctrine of constitutional silence or abeyance. But, the courts are not to plunge into policy-making by adding something to the policy by ways of issuing a writ of mandamus.”

We have referred to the said authority as the court has clearly held that it neither legislates nor does it issue a mandamus to legislate. The relief in the present case, when appositely appreciated, tantamounts to a prayer for issue of a mandamus to take a step towards framing of a rule or a regulation for the purpose of reservation for Scheduled Castes and Scheduled Tribes in matter of promotions. In our considered opinion a writ of mandamus of such a nature cannot be issued.”

and accordingly, dismissed the Writ Petitions.

5. The categorical finding by the Hon’ble Apex Court in **M. Nagaraj** (supra), as explained in the aforesaid recent decision in **Suresh Chand Gautam** (supra), is that the State is not bound to make reservation for SCs/STs in matters of promotion and, however, if the State wishes to exercise the discretion and make such provision, it has to collect

quantifiable data showing backwardness of the Class and inadequacy of representation of that Class in public employment in addition to compliance with Article 335.

6. It is not in dispute that the respondents have not conducted the exercise as mandated by the Constitution Bench in *M. Nagaraj* (supra) and without conducting the same, no State/Authority can apply the rule of reservation in promotion. It is also not in dispute that the decision in *M. Nagaraj* (supra) is not reversed/modified/stayed in any other subsequent decision of the Hon'ble Apex Court till date. The learned counsel for respondents submits that since the issue of "whether the judgment of *M. Nagaraj* needs to be revisited or not" was referred to a Constitution Bench in the matter of *The State of Tripura & Others Vs. Jayanta Chakraborty & Ors.* in Civil Appeal Nos.4562-4564 of 2017 & batch dated 14.11.2017, the OA may be adjourned sine die till the Hon'ble Apex Court decides the said issue.

7. The Hon'ble Apex Court in its order dated 14.11.2017 in *The State of Tripura & Ors. Vs. Jayanta Chakraborty & Ors.* observed as under :-

"The questions posed in these cases involve the interpretation of Articles 16(4), 16(4A) and 16(4B) of the Constitution of India in the backdrop of mainly three Constitution Bench decisions – (1) Indra Sawhney and others v. Union of India and others 1992 Supp. (3) SCC 217, (2) E.V Chinnaiyah v. State of A.P. and others (2005) 1 SCC 394 and (3) M. Nagaraj and others v. Union of India and others (2006) 8 SCC 212. One crucially relevant aspect brought to our notice is that Nagaraj (supra) and Chinnaiyah (supra) deal with the disputed subject namely backwardness of the SC/ST but Chinnaiyah (supra) which came earlier in time has not been referred to in Nagaraj (supra). The question of further and finer interpretation on the application of Article 16(4A) has also arisen in this case. Extensive arguments have been advanced from both sides. The petitioners have argued for a re-look of Nagaraj (supra) specifically on the ground that test of backwardness ought not to be applied to SC/ST in view of Indra Sawhney (supra) and Chinnaiyah (supra). On the other hand, the counsel for the respondents have referred to the cases of (4) Suraj Bhan Meena and Another v. State of Rajasthan and others (2011) 1 SCC 467; (5) Uttar Pradesh Power Corporation Limited v. Rajesh Kumar and others (2012) 7 SCC 1; (6) S. Panneer Selvam and others v. State of Tamil Nadu and others (2015) 10 SCC 292; (7) Chairman and Managing Director, Central Bank of India and others v. Central Bank of India SC/ST Employees Welfare Association and others (2015) 12 SCC 308; and (8) Suresh Chand Gautam v. State of Uttar Pradesh and others (2016) 11 SCC 113 to contend that the request for a revisit cannot be entertained ad nauseam. However, apart from the clamour for revisit, further questions were also raised about application of the principle of

creamy layer in situations of competing claims within the same races, communities, groups or parts thereof of SC/ST notified by the President under Articles 341 and 342 of the Constitution of India.”

2. Having regard to the questions involved in this case, we are of the opinion that this is a case to be heard by a Bench as per the constitutional mandate under Article 145(3) of the Constitution of India. Ordered accordingly. Place the files before the Hon’ble Chief Justice of India immediately.

3. Though the learned counsel have pressed for interim relief, we are of the view that even that stage needs to be considered by the Constitution Bench. The parties are free to mention the urgency before the Hon’ble Chief Justice of India.”

8. In ***Ashok Sadarangani & Another Vs. Union of India*** (2012) 11 SCC 321, Hon’ble Apex Court held as under :-

“19. As was indicated in Harbhajan Singh’s case (supra), the pendency of a reference to a larger Bench, does not mean that all other proceedings involving the same issue would remain stayed till a decision was rendered in the reference. The reference made in Gian Singh’s case (supra) need not, therefore, detain us. Till such time as the decisions cited at the Bar are not modified or altered in any way, they continue to hold the field.”

9. As held in ***Ashok Sadarangani*** (supra), once the legal principle was decided by Hon’ble Apex Court and as long as the same is neither reversed nor modified by any other decision, the said settled principle has to be followed, irrespective of the fact that the same is pending before any higher forum or before a Larger Bench or before a Constitution Bench.

4. It is also the settled principle of law that once the principle is declared by the Hon’ble Apex Court in a particular manner with retrospective implication, any contrary circulars/ Orders/Memorandums issued prior to or subsequent to the said declaration, are non-est and cannot be followed.

5. Coming to the facts of the individual cases, it is seen that certain OAs were filed questioning the orders of the respondents wherein the rule of reservation was followed in promotions and that certain OAs were filed seeking to restrain the respondents from following the reservations in promotions. Similarly in certain OAs, as an interim measure, the respondents were restrained from proceeding further to give effect to the rule of reservation in promotions and whereas in certain OAs their action in following reservations in promotions was made subject to the result of the OAs. In any event, in view of the above referred categorical declaration of the law by the Hon'ble Apex Court in **M. Nagaraj** (supra) unless the mandatory exercise of collecting the quantifiable data is conducted, no authority or Government can follow the rule of reservation in promotions. Since admittedly in Railways or in any other respondent department, no such exercise is conducted, their action in following the rule of reservation in promotions is unsustainable.

6. No other issue, other than the issue of rule of reservation in promotions, was addressed or pressed by any of the learned counsels, at the time of hearing.

7. In the circumstances and for the aforesaid reasons, the respondents are directed to act in terms of **M. Nagaraj**, i.e. without following the rule of reservation in promotions and to redraw the promotional lists/panels, if already issued, with all consequential benefits, however, without any back wages in the circumstances. This exercise shall be completed within 90 days from the date of receipt of a copy of this order. Accordingly, all the O.As. are disposed of.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

am/-