
(1996) 11 SC CK 0173

In the Supreme Court Of India

Case No : Civil Appeal No's. 15528-29 of 1996

G. Deendayalan Ambedkar

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 29-11-1996

Acts Referred:

Railway Establishment Code — Rule 303(1)

Citation : (1996) 9 AD 644 : (1996) 9 SCALE 242 : (1997) 2 SCC 638 : (1997) SCC(L&S) 749 : (1996) 9 SCR 377 Supp

Hon'ble Judges : K. Ramaswamy, J;G. T. Nanavati, J

Bench : Division Bench

Advocate : S.R. Bhat, for the Appellant; P.P. Malhotra Wasim A. Qadri and D.S. Mahra, for the Respondent

Final Decision : dismissed

Judgement

1. Leave granted.
2. We have heard learned Counsel on both sides.
3. These appeals by special arise against the order of the Central Administrative Tribunal, Bangalore Bench, made on 10.2.1994 and 1.3.1995 in OA No. 753/93 and RA No. 22/94 respectively.
4. The admitted position is that the appellant and the respondents came to be selected by Railway Recruitment Board and were placed in a panel prepared on June 28, 1985 as Assistant Station Masters. The appellant was sent for training on December 23, 1985 and had completed the same on June 22, 1986. The respondent Nos. 6 and 7 were sent on July 20, 1986 and they completed the training on January 19, 1987. In preparation of the inter-se seniority, the appellant claimed seniority over the respondents on the ground that he had completed his training earlier to them and as per Rule 303(1)(a) of the Railway Establishment Code, the seniority has to be reckoned from the date of completion of the training and joining the post. Since the appellant was sent for

training on December 23, 1985 and joined the post on June 22, 1986, he became senior to the respondents. The ' Tribunal in the order under appeal, has said that the respondents, though were selected and seniors in the order of ranking, i.e., merits, since the enquiry into the antecedents was pending, they could not be sent for training earlier to the appellant. Therefore, the appellant cannot scale a march over them in the order of seniority.

5. Learned Counsel for the appellant contended that as per the Rule then in vogue, there was no option left to the authorities to determine the inter se seniority in the light of Rule 303(1)(a) of the Code, but on May 31, 1993, the Rule came to be amended amplifying what was latent with potential mischief for the arbitrary exercise of power in picking up and sending the candidates batch-wise for training and giving them accelerated seniority over the candidates who were put below in the order of select list by the Railway Recruitment Board or any of the competent authority; that rule cannot be applied to the case of the appellant and the respondents as the rule in vogue in 1985 alone has to be considered. Though prima fade we found force in the contention of the learned Counsel for the appellant, but on deeper consideration of the legality and justice, we find that there is no force in the contention. It is not in dispute that the respondent Nos. 6 and 7 were selected in the same batch and rank; in the order of merit they were seniors to the appellant. Under these circumstances, since they had not been sent for training, necessarily their ranking given in the list of candidates selected in the order of merit by the Recruitment Board cannot be given a go-by and they cannot be given accelerated seniority to the appellant and the like by picking and choosing the persons as per the whim of the authorities empowered to send them for training. It is settled legal position that the order of merit and ranking given by the Recruitment Board should be maintained when more than one persons are selected, the same inter se seniority should be maintained for future promotions unless Rules prescribe passing of departmental test as a condition for confirmation but was not passed as on the date of determining of inter se seniority. Under these circumstances, the Tribunal was justified and right in not directing the respondent to give seniority to the appellant over the respondents. Therefore, the order of the Tribunal does not warrant interference.

6. The appeal is accordingly dismissed. No costs.