
(1983) 09 GUJ CK 0007
In the Gujarat High Court

I.H. Patel and Another

APPELLANT

Vs

R.K. Mishra and Others

RESPONDENT

Date of Decision : 09-09-1983

Acts Referred:

Constitution of India, 1950 — Article 14, 14, 16, 16

Citation : (1984) GLH 184 : (1984) 1 GLR 274

Hon'ble Judges : S.A. Shah, J

Bench : Single Bench

Judgement

S.A. Shah, J.—The petitioners are confirmed senior clerks in the services of the Railway Administration. Respondent Nos. 2 and 3 are also senior clerks in the Railway Administration and belong to Scheduled Caste and Scheduled Tribe respectively. Both the respondent Nos. 2 and 3 are junior to the petitioners in the said cadre as shown in the seniority list at Annexure-A.

2. Promotional avenue from the post of Senior Clerk is to the post of Head Clerk in Class - III cadre. According to the petitioners there were 24 posts of Head Clerks in the department and the reservation of posts for Scheduled Castes and Scheduled Tribes candidates was 71/2 % and 15% respectively. However, the Railway Board has prescribed and published roster points after taking into account the reservation and the promotions are to be made in accordance with the roster points fixed by the Railway Board which is in turn in accordance with the various resolutions published by the Central Government.

3. There is no doubt that six Senior Clerks whose names are mentioned in para 11 of the petition were promoted to the cadre of Head Clerks against the respective quota of Scheduled Castes and Scheduled Tribes and, therefore, their quota was complete. It is not in dispute that the Head Clerks belonging to SC/ST have been further promoted to the higher cadre of Chief Clerk and there occurred vacancy for two posts of Head Clerks. The question which arises for my consideration is as to how these two posts which have fallen vacant on account of promotion of two Head Clerks belonging to SC/ST are to be filled in; whether

the two Senior Clerks belonging to SC/ST should be replaced in the vacant posts or the roster is to be further operated.

4. The petitioners were apprehending that the Railway Administration will appoint Senior Clerks belonging to SC/ST in the vacant posts and on that apprehension the petitioners have filed this petition. Mr. D.N. Mathur, Divisional Personal Officer, Western Railway, Partapnagar, Baroda, has filed the affidavit-in-reply and in paras 11 and 12 thereof he has clearly stated that the vacancies will be filled in only as per the extent instructions contained in the Railway Board's letter dated 11-1-1973. The averments made in para 12 of his affidavit, being relevant, are reproduced below:

As regards para 13 of the petition I submit that when the reservation roster is to be applied, the question of quota in cadre of particular category at the rate of 15% for SC and 7% for ST does not arise. No such instructions are there as stated by the petitioners in this para. The action on the part of the Railway Administration is not violative of the Articles 14 and 16 of the Constitution of India in any manner.

5. If the respondent-Railway does not try to maintain this quota on account of promotion of the SC/ST candidates and operate roster points in filling up the further vacancies no exception can be taken by the petitioners. Once the roster points are fixed by the respective authorities in accordance with the reservation quota available to the respective community and when such roster is operated the vacancies are to be filled in as per roster points, whether the vacancy occurs on account of promotion or retirement of SC/ST officer.

6. In view of the aforesaid categorical answer that, the Railway Administration will adhere to the roster points and fill in the vacancies as per instructions of the Railway Board dated 11-1-1973 the apprehensions of the petitioners are totally unfounded. About five years have passed and no complaints have been made which necessarily leads to the conclusion that the Railway Administration must have filled up the vacancies in accordance with the roster points.

In the above circumstances there is no merit in the petition and the petition is dismissed. Rule is discharged with no order as to costs.