
(2020) 02 CAT CK 0036

In the Central Administrative Tribunal

Case No : Original Application No. 2047 Of 2014, Miscellaneous Application No. 1749 Of 2014

Prakash Chandra And Ors

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 18-02-2020

Acts Referred:

Citation : (2020) 02 CAT CK 0036

Hon'ble Judges : L. Narasimha Reddy, J;A. K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Meenu Mainee, SM Arif, Shabnam Perween

Final Decision : Disposed Of

Judgement

L. Narasimha Reddy, J

1. In this OA, the applicants challenge an order dated 05.06.2014 through which the promotions were effected to the post of Master Craftsmen (MCM) in the Northern Railway, by applying the rule of reservation in the category of SC/ST candidates.

2. The applicants contend that such reservation in promotion is contrary to law laid down by the Hon'ble Supreme Court and that the same has affected their rights.

3. The respondents did not file any reply, obviously because this very issue is pending before the Hon'ble Supreme Court in various cases.

4. We heard Mrs. Meenu Mainee, learned counsel for the applicants and Shri S.M. Arif, learned counsel for the respondents, at length.

5. The question pertaining to reservation in promotion was dealt with by this Tribunal, various High Courts and Hon'ble Supreme Court, on different occasions. The judgment in M. Nagaraja & Ors. vs. Union of India & Ors., (2006)8 SCC 212, discussed in detail the various aspects of reservation in promotions. Recently,

that judgment was interpreted or explained in *Jarnail Singh vs. Lachhmi Narain Gupta*, (2018)10 SCC 396. In OA No. 1128/2011 and batch, the Hyderabad Bench of this Tribunal considered the question of reservation in promotion in the Railways. A set of directions was issued, in the context of implementation of the reservation in promotion.

6. In the recent past, the Hon'ble Supreme Court in the case of *Mukesh & Anr. vs. State of Uttarakhand & Ors.*, Civil Appeal No. 1226/2020, explained the various principles, governing this very issue.

7. Therefore, we allow this OA and issue the same directions as were issued in OA No. 1128/2011, namely, that

1. The Northern Railway or the Railway administration, in general shall take a policy decision indicating the parameters for introduction and implementation of the reservation in promotions, which shall include:

(i) the verification of the representation of the category of Scheduled Castes & Scheduled Tribe employees in the post or cadre for promotion to which, reservation is sought to be effected and the resultant effect of any on the efficiency of the administration;

(ii) the manner in which the concept of creamy layer shall be applied in enforcing such reservation in promotions; and

(iii) the duration up to which the promotion shall be in force.

2. The view of the Association of Scheduled Caste & Scheduled Tribe employees on the one hand and the Association of employees in general on the other hand, shall be taken into account before such parameters are identified.

3. Unless and until a decision at the level of Ministry of Railways & Railway Board is taken as regards the implementation of the reservation in promotions, the same shall not be effected at the lower levels.

4. If such guidelines already exist in respect of any post or cadre, reservations in promotion can be made to such posts or cadre, duly referring to the relevant guidelines and administrative orders.

5. If any promotions have taken place contrary to the law as it exists now, it shall be open to the Railway administration to take corrective steps. Pending such action, the promotions so made shall be treated as provisional, without giving rise to any right to seniority in the promoted post.

6. The entire exercise indicated above shall be completed within a period of six months from the date of receipt of a copy of this order.

8. Pending MA, if any, shall also stand disposed of. There shall be no order as to costs.