

A

K. MANICKARAJ  
v.  
UNION OF INDIA

APRIL 2, 1997

B

[K. RAMASWAMY AND G.B. PATTANAİK, JJ.]

C

*Service Law : Railways—Promotion—Quota for reserved category—Increase in the number of reserved posts with the increase in the member of upgraded posts—Union of India to consider the case of promotion of the appellant to the post of Welfare Inspector Grade II—Direction issued.*

D

Appellant, a Scheduled Caste candidate was initially appointed as Assistant Station Master, then promoted to a higher post and further promoted as Welfare Inspector Grade III. The cadre of Welfare Inspectors consisted of three categories viz., Grade I, II and III. By an Order the cadre strength of different categories was restructured with 35% of posts in Grade I, 40% in Grade II and 25% in Grade III. In view of change of percentage of different categories, appellant expected a promotion from Grade III to Grade II but he was not promoted. Therefore, he filed an application before the Central Administrative Tribunal stating that since three posts from Grade III were upgraded to Grade II, the total number of posts available in Grade II was 26 as against the original number of 23 and since there was reservation of 15% for SC, the total number of reserved posts in grade II would work out at 4 and factually only 3 were working and thus he was entitled to promotion.

E

F

The respondent contended that there was no change in the strength of Grade II and it remained at 23. It was also contended that some posts were upgraded from Grade III to Grade II for sports personnel and such upgradation was temporary.

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The Tribunal accepted the contention of the respondent that the posts were specially meant for sports personnel and dismissed the application. Dissatisfied with the Tribunal's findings, appellant preferred the present appeal.

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Allowing the appeal, this Court

**HELD : 1. The upgraded posts which were made in 1987 still continue and therefore it cannot be said that the upgradation was made for a temporary period meant for sports personnel. [507-B]** A

**2. The cadre strength of Grade II Inspectors has become 26 and 15% reservation to the cadre would work out to 4 posts and not 3 as contended by the respondent. [507-C]** B

**3. The judgment of the Tribunal is set aside and the respondents are directed to consider the case of promotion of appellant to Grade II Welfare Inspector. [507-E]**

**CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2578 of 1997.** C

From the Judgment and order dated 19.9.95 and 8.2.96 of the Central Administrative Tribunal, Madras in O.A. No. 267/94 and R.A. No. 12 of 1996. D

Mrs. Pushpa Rajan and K.B. Sounder Rajan for the Appellant.

S.W.A. Qadri and A.K. Sharma for the Respondent

The Judgment of the Court was delivered by E

**PATTANAIAK, J. Delay Condoned.**

Leave granted.

This appeal by special leave is directed against the judgment of the Central Administrative Tribunal, Madras Bench dated 19.9.1995 in OA No. 267 of 1994. The said application has been filed by the appellant for a direction to the railway administration to promote the appellant as Welfare Inspector Grade-II with effect from 2.4.1993 as one post was available in the reserved category. F

The brief facts necessary for deciding this appeal are stated as under : G

The appellant was appointed as Assistant Station Master in the scale of Rs. 330-560 and was then promoted to a higher post in the scale of Rs. 425-640 with effect from 8.1.1985. He was further promoted as Welfare H

- A Inspector Grade-III in the scale of Rs. 1480-2300 and joined the said post on 27.12.1991. The appellant admittedly belongs to Scheduled Caste. The cadre of Welfare Inspectors consisted of 3 categories; namely: Welfare Inspector Grade-I in the scale of Rs. 2000-3200; Welfare Inspector Grade-II in scale of Rs. 1600-2660 and Welfare Inspector Grade-III in the scale of Rs. 1400-2300. By Order dated 27th January, 1993 the cadre strength of the different categories of Welfare Inspectors was restructured and it was directed that 35% of posts would be in Grade-I, 40% in Grade-II and 25% in Grade-III. In view of change of percentage of the different categories of posts, the appellant expected a promotion to Grade-II but the same having not been done, he filed the application before the Tribunal. It was averred in the application filed before the Tribunal that three posts from Grade-III having been upgraded to Grade-II, the total number of posts available in Grade-II is 26 as against the original number of 23 and since there is reservation of 15% for Scheduled Caste, the total number of posts available for the Scheduled Caste in Grade-II would work out at 4 but factually only 3 persons belonging to the Scheduled Caste are working in Grade-II, and therefore, the appellant was entitled to promotion to Grade-II. The respondent in the counter-affidavit filed, however, contended that there has been no change in the strength of the post in Grade-II which remained at 23 but for sports personnel some posts were upgraded from Grade-III to Grade-II and those upgraded posts cannot be taken into account for determining the number of posts available for reserved category as such upgradation was temporary in nature and is not a permanent addition to the number of posts, and therefore, can't be taken into account for computation of 15% reservation in the said Grade-II. The Tribunal by the impugned judgment accepted the contention raised by the respondent and came to hold that the posts which have been upgraded having been borrowed from Grade-III and being specially meant for sports personnel cannot be counted for determining the 15% reserved quota meant for Scheduled Caste, and therefore, the cadre strength of Grade-II being 23 only 3 persons from the Scheduled Caste would be promoted to the Grade-II and thus three persons having already been there the claim of the appellant cannot be allowed. With this conclusion the Tribunal having dismissed the application filed by the appellant, the present appeal has been preferred.

H The question that arises for consideration, therefore, is whether the number of upgraded post from Grade-III to Grade-II meant for sports personnel can be taken into account for determining the number of