

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

-
WRIT PETITION No.12966 OF 2015

-
ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

At the request of Sri J. Satya Prasad, Learned Counsel appearing for the petitioners and Sri K.R.K.V. Prasad, Learned Counsel for the respondents-applicants, the Writ Petition is disposed of at the stage of admission.

Sri J. Satya Prasad, Learned Counsel for the petitioners, would submit that the Tribunal has directed the Railways to consider the case of the respondents-applicants (who belong to the open category) for promotion to the post of Loco Pilot (goods) strictly in terms of seniority; in view of the order passed by this Court in W.P. No.39158 of 2013 and batch dated 29.04.2015, the railways are required to undertake and complete the exercise of gathering data and forming their opinion, on the parameters stipulated by the Supreme Court in **M. Nagaraj v. Union of India**^[1], within six months, and to only make incharge arrangements in the interregnum; the order now passed by the Tribunal would require the railways to promote candidates belonging to the open category strictly in terms of their seniority, thereby denying the reserved candidates the opportunity of being considered for promotion even if the exercise undertaken by the railways, in terms of the order of this Court, were to satisfy the parameters laid down in **M. Nagaraj**¹.

While stating that the issue is squarely covered by the Division bench judgment in W.P. No.39158 of 2013 and batch dated 29.04.2015, Sri K.R.K.V. Prasad, Learned Counsel for the respondent-applicant, would however contend that any order passed by this Court should not be construed by the railways as enabling them to provide reservation in promotion or to effect promotion of employees belonging to the reserved category. As this issue has been considered elaborately in W.P. No.39158 of 2013 and batch dated 29.04.2015, the apprehension

expressed by Sri K.R.K.V. Prasad, Learned Counsel for the respondents-applicants, is unfounded.

The order of the Tribunal, to the extent it directed the railways to consider the case of the respondents-applicants for promotion for higher posts strictly in accordance with the seniority without operating the roster point, is set aside. In all other aspects this Writ Petition is disposed of in terms of, and in accordance with, the judgment of this Court in W.P. No.39158 of 2013 and batch dated 29.04.2015. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, J)

(M.SATYANARAYANA MURTHY, J)

Date: 29.04.2015.

MRKR

[\[1\]](#) (2006 (8) SCC 212