

THE HON'BLE SRI JUSTICE BATTU DEVANAND

AND

THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

WRIT PETITION Nos. 28441 of 2025 & 1865 of 2026

COMMON ORDER: *(Per Hon'ble Sri Justice Battu Devanand)*

The Constitution of India, as envisioned by Dr. B. R. Ambedkar and the framers of our constitutional framework, does not confine itself to the notion of mere formal equality. The constitutional philosophy seeks to secure substantive equality by addressing historical disadvantages and structural inequalities faced by socially marginalized sections of society. Recognizing that identical treatment among unequal may itself result in injustice, the constitutional scheme permits affirmative measures to ensure meaningful equality of opportunity, including provisions relating to reservation in public employment.

2. The constitutional commitment towards social justice subsequently evolved through judicial interpretation and constitutional amendments, particularly in matters concerning representation of Scheduled Castes and Scheduled Tribes in public services. Reservation in promotion emerged as one of the instruments intended to remedy continuing under-representation and institutional barriers faced by historically disadvantaged communities. The constitutional amendments introducing **Articles 16(4A) and 16(4B)** signify the recognition by Parliament that equality of opportunity under Article 16 may, in appropriate circumstances, require protective measures extending beyond

initial appointment and into promotional avenues. The present case, therefore, calls upon this Court to examine the delicate balance between the constitutional guarantee of equality and the enabling provisions designed to achieve substantive justice, particularly in the context of reservation in promotions and consequential seniority.

3. These writ petitions raises important questions concerning the constitutional and statutory framework governing reservation in matters of promotion and consequential seniority within the service jurisprudence applicable to Railway employees. The controversy, in essence, lies at the intersection of the equality mandate embodied under Articles 14 and 16 of the Constitution and the enabling provisions permitting the State to extend reservation in matters of promotion in favour of members of Scheduled Castes and Scheduled Tribes.

4. The Writ Petitions are filed against the orders, dated 21.10.2024 passed in O.A.No.020/0360/2022 and O.A/020/0361/2022 on the file of the Central Administrative Tribunal, Hyderabad Bench.

5. The writ petitioners in W.P.No.28441 of 2025 are the private respondents and the respondent Nos.6 to 12 are the original applicants in the O.A.020/0360/2022 on the file of the Central Administrative Tribunal, Hyderabad Bench.

6. The writ petitioners in W.P.No.1865 of 2026 are the private respondent Nos.6 & 15 and the respondent Nos.6 to 12 are the original applicants in the

O.A.020/0361/2022 on the file of the Central Administrative Tribunal, Hyderabad Bench.

7. For the sake of convenience, the petitioners will be referred hereinafter as “writ petitioners”, the respondent Nos.1 to 4 will be referred as “official respondents” and respondent Nos. 6 to 12 will be referred as “private respondents”.

8. **Facts of the case in brief are as follows:**

(i). The present Writ Petitions arises out of a dispute concerning promotion and consequential seniority in the cadre of Loco Pilots under the South-Central Railway, Vijayawada Division.

(ii). The writ petitioners are the Loco Pilots (Mail) who belong to the SC/ST community. The respondent Nos.6 to 12 are the Loco Pilots (Pass) who belong to unreserved category. The private respondents are the seniors to the writ petitioners in the category of Assistant Loco Pilots in the seniority list, dated 10.03.2007. The writ petitioners who belonged to the SC/ST category were granted accelerated promotions to the cadre of Loco Pilot (Goods) and Loco Pilot (Pass) after 2006 in preference to the private respondents by providing reservation in promotion by virtue of accelerated seniority granted to them. The writ petitioners were granted the consequential seniority in the cadre of Loco Pilot (Goods) and Loco Pilot (Pass) in the provisional seniority list of Loco Pilot (Goods), dated 03.06.2019 and Loco Pilot (Pass), dated 10.03.2021 and 31.01.2022 by virtue of their accelerated seniority post assigned in the cadre of Loco Pilot (Pass). The writ petitioners are placed in

the select list in the Memorandum issued in B/P.535/III/RG/MDR/Vol.VIII, dated 28.06.2021 and promotion list dated 30.06.2021 for promotion to the post of Loco Pilot (Mail) against the unreserved vacancies. Consequent upon their earlier promotions, the petitioners acquired seniority in the feeder cadre and were thereafter promoted to the posts of Loco Pilot (Passenger) and subsequently Loco Pilot (Mail), their names being reflected above the private respondents in the seniority lists in terms of Para 306 of the Indian Railway Establishment Manual and other applicable Service Regulations.

(iii). Aggrieved by the same, the private respondents approached the Central Administrative Tribunal, Hyderabad Bench by filing Original Application in O.A.No.020/360/2022 & O.A.No.020/361/2022. The Central Administrative Tribunal, Hyderabad Bench, by oral order, dated 21.10.2024 allowed the Original Application and the orders impugned therein, dated 03.06.2019, 10.03.2021 and 31.01.2022, 28.06.2021 and 30.06.2021 were quashed and set-aside directing the official respondents therein to re-draw the seniority of the private respondents in the cadre of Loco Pilot (Goods) and Loco Pilot (Passenger) vis-à-vis the writ petitioners without granting the consequential seniority in favour of the writ petitioners. It is directed to carry out the necessary exercise by giving promotion to the private respondents to the post of Loco Pilot (Maid) within a period of four (04) weeks from the date of receipt of a copy of the order. Against the order, dated 21.10.2024 of the Central Administrative Tribunal, Hyderabad Branch, the petitioners filed the present writ petitions.

9. **The case of the petitioners:** As borne out from the pleadings and records, that the promotional benefits and consequential seniority extended to them are in conformity with the constitutional framework governing reservation in promotions under **Articles 14, 16(1), 16(4), 16(4A)** and 16(4B) of the Constitution of India. According to them, the constitutional objective is not merely formal equality but substantive equality through adequate representation of Scheduled Castes and Scheduled Tribes in public employment. Reliance has been placed upon the principles laid down by the Hon'ble Supreme Court in ***R.K. Sabharwal v. State of Punjab*¹, *M. Nagaraj v. Union of India*², *Jarnail Singh v. Lachhmi Narain Gupta*³ and *B.K. Pavitra v. Union of India*⁴**, to contend that consequential seniority granted pursuant to valid reservation in promotion cannot be defeated by invoking the catch-up principle, particularly after the constitutional amendments incorporating **Articles 16(4A) and 16(4B)**.

10. **The case of the private respondents:**

(i). The respondents however, questioned the validity of such promotions and consequential seniority by contending that accelerated promotion granted to the petitioners belonging to the SC/ST category cannot automatically confer consequential seniority and that such benefits can be sustained only upon strict compliance with the constitutional requirements laid down by the Hon'ble Supreme Court.

¹ (1995) 2 SCC 745

² (2006) 8 SCC 212

³ (2018) 10 SCC 212

⁴ (2019) 16 SCC 129

(ii). It was the contention of the private respondents that the grant of such benefits disturbed the pre-existing seniority structure and adversely affected employees who were otherwise senior in the feeder cadre. In support of their contentions, reliance was placed upon ***M. Nagaraj v. Union of India*** (2nd cited *supra*) and ***Jarnail Singh v. Lachhmi Narain Gupta*** (3rd cited *supra*) to contend that Article 16(4A) remains an enabling provision and that reservation in promotion with consequential seniority must be preceded by collection of quantifiable data, proof of inadequacy of representation, and maintenance of administrative efficiency. The respondents further relied upon ***Union of India v. Sajib Roy***⁵, ***Pravakar Mallick & Ors. v. State of Orissa***⁶, the judgment of the Hon'ble Delhi High Court in *WP(C) No.3490/2010*, the Punjab & Haryana High Court judgment in *CWP No.13218 of 2009*, and *Union of India v. Lokesh Kumar Saini*, in support of their submission that the impugned promotions and consequential seniority were contrary to settled principles governing reservation in promotional matters.

11. Heard Mr.Perika Nehemiah counsel appearing for the writ petitioners and Mr.Josyula Bhaskara Rao & Mr.G.Sai Narayana Rao, learned standing counsels and Mr.Edukondalu Chandu, learned counsel for the respondents and perused the record. Having heard the submissions of the respective counsels and upon careful examination of the record, the following issues emerged for consideration of this Court:

⁵ (2025 INSC 1084)

⁶ AIRONLINE 2020 SC 476

1. *Whether the grant of accelerated promotion and consequential seniority to the petitioners belonging to SC/ST category in the cadres of Loco Pilot (Goods) and Loco Pilot (Passenger) is valid in law?*

2. *Whether the Railway Administration complied with the constitutional requirements laid down under Article 16(4A) and the law declared in M. Nagaraj and Jarnail Singh while granting reservation in promotion to the cadre of Loco Pilot (Passenger)?*

3. *Whether the validity of promotions to the post of Loco Pilot (Mail) is required to be assessed independently as a separate cadre, or with reference to the promotional and seniority structure existing in the feeder cadres of Loco Pilot (Goods) and Loco Pilot (Passenger)?*

4. *Whether promotion to the post of Loco Pilot (Mail), having been made against unreserved vacancies, falls within the ambit of Article 16(4A) of the Constitution or was governed solely by inter-se seniority and suitability in the feeder cadre?*

12. **Issue Nos. 1 and 2** are clubbed together for consideration, as the adjudication of one issue is contingent upon and inseparably linked with the determination of the other, both involving interconnected questions of fact and law. The present issues concern the legality of grant of accelerated promotion and consequential seniority to the petitioners in the cadres of Loco Pilot (Goods) and Loco Pilot (Passenger).

13. **Submissions of the Writ Petitioners:**

(i). It is the contention of the petitioners that the promotions under challenge were affected after due compliance with constitutional requirements and settled principles governing reservation in promotion. According to the

petitioners, the official respondents had undertaken an exercise of collecting quantifiable data and assessed inadequacy of representation in accordance with the law declared by the Hon'ble Supreme Court in *M. Nagaraj* (2nd cited supra) and later affirmed in *Jarnail Singh* (3rd cited supra). It is submitted that the exercise revealed inadequacy of representation in the relevant cadre and promotions were granted only after applying the post-based roster system.

(ii). the petitioners further contend that **Articles 16(4A) and 16(4B)**, though introduced by constitutional amendments, are merely enabling provisions flowing from **Article 16(4)** and do not alter the basic structure governing reservation. They rely upon the observations in *M. Nagaraj* (2nd cited supra) that the constitutional requirements of backwardness, inadequacy of representation, maintenance of administrative efficiency under Article 335, the 50% ceiling limit and post-based roster principles continue to operate notwithstanding the amendments.

(iii). At this juncture, reference may be made to the constitutional evolution of reservation in promotion. In *Indra Sawhney v. Union of India*⁷, the Supreme Court held that Article 16(4) did not extend reservation to promotions. This resulted in Parliament introducing Article 16(4A) through the Seventy-Seventh Constitutional Amendment enabling reservation in promotion for SC/ST employees where they were inadequately represented.

⁷ AIR 1993 SC 477

(iv). Subsequently, in ***UNION OF INDIA AND ORS. ETC VS. VIRPAL SINGH CHAUHAN (1995)***⁸ and ***Ajit Singh (II) v. State of Punjab***⁹, the Supreme Court evolved the Catch-Up Rule and held that accelerated promotion would not automatically carry consequential seniority. Parliament thereafter enacted the Constitution **(Eighty-Fifth Amendment) Act**, introducing the expression **“with consequential seniority”** into Article 16(4A), thereby removing the basis of the Catch-Up Rule and ensuring that SC/ST candidates promoted through reservation retained seniority benefits arising from such promotion.

(v). The petitioners further place reliance on *B.K. Pavithra* (4th cited supra) and the decision of the Gauhati High Court to contend that Article 16(4A) remains an enabling provision and that the State possesses discretion to provide reservation in promotion with consequential seniority, reservation without consequential seniority, or not provide such reservation at all, subject to compliance with the requirements laid down in *M. Nagaraj* and *Jarnail Singh*.

14. **Submissions of official respondents:**

(i). It is contended by the official respondents that in the present case, quantifiable data was collected and the inadequacy of representation of reserved candidates was assessed before operating the roster. Therefore, according to the official respondents, the promotions granted and

⁸ (1995) 6 SCC 684

⁹ (1999) 7 SCC 209

consequential seniority assigned to the petitioners cannot be said to be contrary to law.

(ii). The official respondents further placed reliance upon ***R.K. Sabharwal v. State of Punjab*** (1st cited *supra*) to contend that reservation is to be implemented through a post-based roster system wherein the cadre strength constitutes the relevant unit for determining representation. It is submitted that the Railway administration, while assessing representation in the cadre of Loco Pilot (Passenger), considered the entire cadre strength, including SC/ST candidates promoted on their own merit against Unreserved points, and undertook an exercise to determine adequacy of representation. According to the official respondents, such an exercise is in consonance with the principles laid down in *R.K. Sabharwal* and demonstrates that reservation in promotion was implemented through a constitutionally recognized mechanism rather than through a vacancy-based approach.

15. **Submissions of the private respondents:-**

(i). Per contra, the respondents contend that the grant of accelerated promotion and consequential seniority in favour of the petitioners is not sustainable in law. It is submitted that while reservation in promotion may permit accelerated advancement of SC/ST candidates, such benefit cannot be extended in a manner that unjustly alters the existing seniority structure and prejudicially affects the rights of employees who were otherwise senior in the feeder cadre.

(ii). The respondents further contend that **Article 16(4A)**, even after its amendment by the Constitution (**Eighty-Fifth Amendment**) Act introducing consequential seniority, remains only an enabling provision and does not confer an automatic right. Reliance is placed upon the decision of the Hon'ble Supreme Court in *M. Nagaraj v. Union of India* (2nd cited supra) wherein it was held that the State, before extending reservation in promotion with consequential seniority, is required to satisfy constitutional requirements including collection of quantifiable data regarding inadequacy of representation and consideration of administrative efficiency under **Article 335**. It is further submitted that the said principles were subsequently affirmed in *Jarnail Singh v. Lachhmi Narain Gupta* (3rd cited supra).

(iii). The respondents further rely upon the observations of the Hon'ble Supreme Court in the proceedings arising out of SLP (C) No. 30621 of 2011 and connected matters, wherein it was clarified that promotions may continue in accordance with law, subject to the outcome of the pending proceedings. According to the respondents, such observations cannot be construed as dispensing with the constitutional requirements laid down in *M. Nagaraj*.

(iv). Accordingly, it is contended that accelerated promotion and consequential seniority cannot be granted as a matter of course merely on the basis of reservation and that any such exercise must strictly conform to constitutional limitations and judicially evolved safeguards. Therefore, the grant of accelerated promotion and consequential seniority in favour of the petitioners is liable to be interfered with.

(v). The respondents contend that such benefits cannot be extended as a matter of course and that any exercise granting accelerated promotion coupled with consequential seniority must necessarily satisfy the constitutional requirements laid down by the Hon'ble Supreme Court in *M. Nagaraj v. Union of India* (2nd cited supra), failing which the same would be vulnerable to challenge as violative of Articles 14 and 16 of the Constitution.

(vi). The respondents further contend that the conferment of consequential seniority upon the petitioners has disturbed the pre-existing seniority structure and adversely affected employees who were otherwise senior in the feeder cadre. It is their submission that Article 16(4A), despite the introduction of the Eighty-Fifth Constitutional Amendment, continues to remain an enabling provision and does not create an automatic or vested right in favour of SC/ST employees. Reliance has been placed upon *M. Nagaraj v. Union of India* (2nd cited supra) and *Jarnail Singh v. Lachhmi Narain Gupta* (3rd cited supra) to contend that reservation in promotion with consequential seniority can be sustained only upon satisfaction of constitutional requirements including collection of quantifiable data, inadequacy of representation and maintenance of efficiency in administration.

16. This Court has carefully considered the rival submissions advanced on behalf of the petitioners and respondents and has examined the constitutional framework, statutory provisions, and governing principles relating to reservation in promotion and consequential seniority. The principal challenge raised by the private respondents pertains to the legality of accelerated

promotions granted to the petitioners belonging to the SC/ST category along with consequential seniority.

17. At this juncture, it is appropriate and essential to extract the relevant Articles of the Constitution of India as herein under:

18. **Article 14**

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

19. **Article 16**

Equality of opportunity in matters of public employment.

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office [under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation [in matters of promotion, with consequential seniority, to any class] or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent of the posts in each category.

20. THE CONSTITUTION (SEVENTY-SEVENTH AMENDMENT) ACT, 1995
[Assented on 17th June, 1995, and came into force on 17.6.1995]

(i). An Act further to amend the Constitution of India BE it enacted by Parliament in the Forty- sixth Year of the Republic of India as follows:

“(4A) Nothing in this Article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.”

21. **THE CONSTITUTION (EIGHTY-FIFTH AMENDMENT) ACT, 2001**

Amendment of **Article 16** -

In article 16 of the Constitution, in clause (4A), for the words "*in matters of promotion to any class*", the words "*in matters of promotion, with consequential seniority, to any class*" shall be substituted.

22. **STATEMENT OF OBJECTS AND REASONS FOR AMENDING ARTICLE-16(4A) OF THE CONSTITUTION OF INDIA:-**

(a) The Government servants belonging to the Scheduled Castes and the Scheduled Tribes had been enjoying the benefit of consequential seniority on their promotion on the basis of rule of reservation. The judgments of the Supreme Court in the case of **Virpal Singh Chauhan (1995) (8th cited supra)** and **Ajit Singh 1996 (9th cited supra)**, which have adversely affected the interest of the Government servants belonging to the Scheduled Castes and Scheduled Tribes category in the matter of seniority on promotion to the next higher grade. This has led to considerable anxiety and representations have also been received from various quarters including Members of Parliament to protect the interest of the Government servants belonging to Scheduled Castes and Scheduled Tribes

(b) This will require amendment to article **16(4A)** of the Constitution to provide for consequential seniority in the case of promotion by virtue of rule of reservation. It is also necessary to give retrospective effect to the proposed constitutional amendment to article 16(4A) with effect from the date of coming into force of article 16(4A) itself, that is, from the 17th day of June, 1995.

23. Analysis, Reasoning & Findings:-

(i). At the outset, it is necessary to note that the law governing reservation in promotion has undergone considerable constitutional evolution. In *Indra Sawhney v. Union of India* (7th cited supra), the Hon'ble Supreme Court held that Article 16(4) did not contemplate reservation in matters of promotion. Consequent thereto, Parliament introduced Article 16(4A) through the Constitution (Seventy-Seventh Amendment) Act enabling reservation in promotion for SC/ST employees where they were found inadequately represented in State services.

(ii). Subsequently, in *Virpal Singh Chauhan* (8th cited supra) and *Ajit Singh Januja* (9th cited supra), the Hon'ble Supreme Court evolved the Catch-Up Rule and held that accelerated promotion granted through reservation would not automatically carry consequential seniority. However, Parliament, in exercise of its constituent power under Article 368, enacted the Constitution (Eighty-Fifth Amendment) Act and amended Article 16(4A) by inserting the expression "*with consequential seniority.*" The amendment thereby **removed the basis on which the Catch-Up Rule operated and constitutionally recognized consequential seniority as an incident flowing from reservation in promotion.**

(iii). The constitutional validity of Articles 16(4A) and 16(4B) thereafter came up for consideration before the Hon'ble Supreme Court in *M. Nagaraj v. Union of India* (2nd cited supra), while upholding the amendments made under Constitution (Eighty Fifth Amendment) Act, 2001, it was held that the said

provisions are enabling in nature and that reservation in promotion with consequential seniority may be provided subject to satisfaction of constitutional requirements, namely inadequacy of representation, collection of quantifiable data and maintenance of administrative efficiency under Article 335. These principles were subsequently clarified and reaffirmed in *Jarnail Singh v. Lachhmi Narain Gupta* (3rd cited *supra*).

(iv). In **INDRA SWAHNEY** (7th cited *supra*), the court held that reservation in promotion is constitutionally impermissible as, once the advantaged and disadvantaged are made equal and are brought in one class or group then any further benefit extended for promotion on the inequality existing prior to be brought in the group would be treating equals unequally. It would not be eradicating the effects of past discrimination but perpetuating it. The relevant paragraph of the judgment is extracted herein under:

“The reservations in the promotions in the services are unconstitutional as they are inconsistent with the maintenance of efficiency of administration. However, the backward classes may be provided with relaxations, exemptions, concessions and facilities etc. to enable them to compete for the promotional posts with others wherever the promotions are based on selection or merit-cum-seniority basis. Further, the committee or body entrusted with the task of selection must be representative and manned by suitable persons including those from the backward classes to make an impartial assessment of the merits. To ensure adequate representation of the backward classes which means representation at all levels and in all grades in the service, the

rules of recruitment must ensure that there is direct recruitment at all levels and in all grades in the services.”

(v). Following the decision of the Supreme Court in **Indra Sawhney v. Union of India** (7th cited supra), which held that reservation under Article 16(4) was confined only to initial appointments and could not extend to promotions, the long-standing policy of reservation in promotions for Scheduled Castes and Scheduled Tribes faced the risk of discontinuation. Since SC/ST representation in public services was still considered inadequate, and to safeguard their interests, the Government decided to restore and continue the existing policy of reservations in promotions. Consequently, the Constitution (Seventy-Seventh Amendment) Act, 1995 inserted Article 16(4A), thereby reinstating reservation in promotions for Scheduled Castes and Scheduled Tribes and effectively restoring the position that existed prior to the judgment.

(vi). The said Clause (4A) was inserted after Clause (4) of Article 16 to say that nothing in the said Article shall prevent the State from making any provision for reservation in matters of promotion to any class(s) of posts in the services under the State in favour of SCs and STs which, in the opinion of the States, are not adequately represented in the services under the State.

(vii). **Article 16(4A)** is structured on the same lines as clauses (3) and (4) of Article 16 and places emphasis on the State's assessment regarding the adequacy of representation of Scheduled Castes and Scheduled Tribes in public services. It is an enabling provision that grants discretion to the State to

provide reservation in promotions, depending upon prevailing circumstances and ground realities. Before exercising this power, the State must form an opinion based on quantifiable data demonstrating inadequate representation.

(viii). Being an enabling provision, **Article 16(4A)** does not mandate reservation in promotions; rather, it merely empowers the State to introduce such measures where necessary. Since Article 16(4A) is carved out of Article 16(4), it remains subject to the foundational requirements underlying Article 16(4), namely backwardness and inadequacy of representation. Unless these conditions are established, the provision cannot be invoked.

(ix). In **UNION OF INDIA AND ORS. ETC VS. VIRPAL SINGH CHAUHAN (1995)** (8th cited supra), the Hon'ble Apex Court introduced the operation of the “**catch-up rule**” by observing that:

“Reservation through the roster system merely enables a candidate belonging to a reserved category to secure an earlier appointment or promotion than might otherwise have been possible. However, such accelerated promotion does not automatically carry with it the benefit of consequential seniority. If a general category candidate, who was originally senior in the feeder cadre, is promoted subsequently, he would regain his senior position upon promotion and rank above the reserved category candidate. Thus, although a reserved category candidate may obtain promotion earlier due to the operation of the roster, the earlier promotion itself does not permanently alter the inter se seniority between candidates. The Court held that reservation confers only a limited and qualified benefit, restricted to facilitating appointment or promotion, and not to granting automatic seniority. Accordingly, the catch-up rule ensured that seniority

*principles based on original position and merit were preserved, and such an arrangement was held not to violate **Article 16(4)** of the Constitution.”*

(x). In **AJIT SINGH JHANUJA (1996)** (9th cited supra), The Hon’ble Apex Court affirmed the principle laid down in *Union of India v. Virpal Singh Chauhan* and held that:

*“Reservation through the roster system grants only accelerated promotion and not accelerated consequential seniority. Seniority in the promoted cadre would continue to be determined with reference to the original inter se seniority in the lower cadre. Accordingly, where a Scheduled Caste or Scheduled Tribe candidate secures earlier promotion through reservation, and a senior general category candidate is promoted subsequently, the latter would regain his original seniority over the reserved category candidate under the catch-up rule. The Court observed that the reserved category candidate, by virtue of roster-based promotion, does not supersede senior general candidates on merit. Therefore, denying restoration of seniority would unfairly allow accelerated promotions to permanently alter the service structure and could eventually prejudice general category candidates in higher promotions, a consequence inconsistent with the constitutional scheme under **Articles 16(4) and 335.**”*

(xi). The Eighty-Fifth Constitutional Amendment Act, 2001, enacted under Article 368, **nullified** the judicially evolved Catch-Up Rule established in *Virpal Singh* and *Ajit Singh* by introducing “consequential seniority” under Article 16(4A), thereby ensuring that SC/ST employees promoted through reservation retained seniority benefits arising from such accelerated promotion.

(xii). In **NAGARAJ VS. UNION OF INDIA** (2nd cited supra), challenges made to the constitutional validity of the 77th, 81st, 82nd and 85th Constitutional Amendments, which were enacted by Parliament to restore and protect

reservation in promotions for Scheduled Castes and Scheduled Tribes. The Constitution Bench of the Hon'ble Supreme Court upheld the constitutional validity of the 77th, 81st, 82nd and 85th Constitutional Amendments concerning reservation in promotions in favour of Scheduled Castes and Scheduled Tribes. However, the Court categorically held that the grant of reservation in promotions is not automatic merely by virtue of the enabling constitutional provisions. The Hon'ble Supreme Court observed that :

“Articles 16(4A) and 16(4B) are enabling provisions and that the State, before exercising such power, must satisfy certain constitutional requirements. The State is required to collect quantifiable data demonstrating the backwardness of the class concerned, inadequacy of representation in public employment, and maintenance of efficiency in administration as contemplated under Article 335 of the Constitution. Reservation cannot result in reverse discrimination and ordinarily cannot breach the ceiling limit of 50% as recognized in Indra Sawhney Judgment, the exercise of reservation by the State remains subject to judicial review where the constitutional parameters are not complied with.”

(xiii). Accordingly, it is clear that while the constitutional amendments enabling reservation in promotions were upheld by the Hon'ble Apex Court, their implementation was made conditional upon the State fulfilling the constitutional requirements through objective and quantifiable material.

(xiv). The private respondents have sought to place reliance upon the aforesaid judgments to contend that the constitutional requirements prescribed therein were not complied with. However, this Court finds such contention to be unsustainable in the facts and circumstances of the present

case. The material available on record as provided by the official respondents **(Annexure 5, dated 10.12.2015)** reveals that prior to effecting promotions to the post of Loco Pilot (Passenger), the Railway administration had undertaken an exercise for collection of quantifiable data wherein the communal requirement is - **SC-12, ST- 06, And UR-128** and assessed the inadequacy of representation of SC/ST employees in the relevant cadre.

(xv). It is noticed by the court that when the entire population of LP (pass) is considered by adding the SC/STs promoted on their own seniority as against UR points, the percentage combined to 24.52% (SC-15.6% and ST- 8.9%) **(Annexure.)** The record further demonstrates that the exercise contemplated under *M. Nagaraj* was in fact undertaken and compliance with the constitutional parameters was acknowledged by the official respondents themselves.

(xvi). The private respondents have further contended that consequential seniority granted to the petitioners adversely disturbs the existing seniority structure. This Court is unable to accept the said submission. Once accelerated promotions were validly granted in accordance with the communal roster and the applicable rules prevailing at the relevant time, and once the constitutional requirements under *M. Nagaraj* (2nd cited *supra*) stood satisfied, the consequential seniority flowing there from cannot be independently assailed. The Eighty-Fifth Constitutional Amendment expressly recognizes consequential seniority and removes the basis of the earlier Catch-Up Rule evolved through judicial interpretation.

(xvii). This Court also finds merit in the reliance placed upon *R.K. Sabharwal* (1st cited supra). The record indicates that while undertaking the exercise mandated under *M. Nagaraj* (2nd cited supra), the Railway Administration assessed representation by considering the cadre strength of Loco Pilot (Passenger), including SC/ST employees promoted on their own merit against Unreserved points. Such an exercise reflects adherence to the post-based roster principle recognized in *R.K. Sabharwal* (1st cited supra), wherein reservation is attached to the cadre strength and not to recurring vacancies. Therefore, the process adopted by the Railway Administration cannot be said to be arbitrary or contrary to constitutional requirements.

(xviii). The material on record further reveals that the petitioners were promoted as Loco Pilot (Goods) in the year 2008 in accordance with the rules and communal roster then prevailing, whereas the respondents entered the promotional cadre at a later stage. Consequent upon their earlier empanelment and promotion, the petitioners acquired seniority under Para 306 of the Indian Railway Establishment Manual. Their subsequent promotions to the cadre of Loco Pilot (Passenger) and the consequential seniority attached thereto therefore arose from validly conferred service benefits and cannot now be termed as arbitrary or contrary to law.

(xix). The Parliament, in exercise of its constituent power under Article 368 of the Constitution, through the Constitution (Eighty-Fifth Amendment) Act, did not merely declare the decisions rendered in *Virpal Singh* (8th cited supra) and *Ajit Singh* (9th cited supra) to be erroneous or ineffective. Rather, by expressly

incorporating the words “*with consequential seniority*” into Article 16(4A), it fundamentally altered the constitutional framework upon which the judicially evolved Catch-Up Rule was founded and thereby removed the very basis of the said judgments. It is a settled principle of constitutional jurisprudence that while the legislature cannot directly overrule or invalidate a judicial pronouncement by legislative declaration, it is fully competent to enact legislation or constitutional amendments that remove the legal substratum and foundation upon which such judgments rest. Once the underlying basis of a judicial determination is constitutionally altered, the principle emanating therefrom ceases to govern the field.

(xx). Consequently, upon the Eighty-Fifth Amendment coming into force, the Catch-Up Rule and the principles flowing from *Virpal Singh* (8th cited supra) and *Ajit Singh* (9th cited supra) lost their operative force. Further, the constitutional validity of such amendments was examined by the Hon’ble Supreme Court in *M. Nagaraj v. Union of India* (2nd cited supra), wherein Articles 16(4A) and 16(4B) were upheld as constitutionally valid and not destructive of the Basic Structure of the Constitution. The Court categorically held that the amendments neither abrogated equality nor damaged the constitutional identity, but merely provided an enabling mechanism for reservation in promotion subject to constitutional limitations. Therefore, no violation of the Basic Structure doctrine can be said to arise, and the amended constitutional position must prevail.

24. Therefore, this Court is of the considered opinion that the private respondents' contention that accelerated promotion cannot result in consequential seniority is contrary to the present constitutional position under Article 16(4A), as amended by the Constitution (Eighty-Fifth Amendment) Act. Once the constitutional safeguards laid down in *M. Nagaraj* (2nd cited supra) and *Jarnail Singh* (3rd cited supra) stand satisfied, consequential seniority becomes a legally sustainable and permissible incident of reservation in promotion. The petitioners were extended such benefits in accordance with the constitutional framework, judicial precedents and applicable service rules. This Court finds no infirmity in granting of accelerated promotion and consequential seniority in favour of the petitioners. Consequently, the challenge raised by the respondents on this issue is liable to fail. Accordingly, issue Nos.1 & 2 answered in favour of the petitioners.

25. **Issue No. 3 :-**

This particular issue deals with the legality/validity of 'whether promotion to the post of Loco Pilot (Mail) is to be treated as an independent exercise or whether the same is required to be determined on the basis of the seniority and promotional structure prevailing in the feeder cadres of Loco Pilot (Goods) and Loco Pilot (Passenger)'.

26. **Submissions of the Writ Petitioners:**

(i) The petitioners contend that promotion to the cadre of Loco Pilot (Mail) cannot be treated as a fresh or standalone promotional exercise detached from the feeder cadre seniority. It is contended that once seniority had validly

fixed in the feeder cadre after compliance with the constitutional requirements laid down in *M. Nagaraj* (2nd cited supra) and *Jarnail Singh* (3rd cited supra), the same could not be reopened at every successive promotional stage.

(ii). The petitioners further contend that the private respondents are erroneously attempting to re-agitate the issue of consequential seniority at the stage of promotion to Loco Pilot(Mail), despite the feeder cadre seniority having already attained finality. Accordingly, the petitioners submits that the promotions granted to the petitioners are strictly in accordance with the applicable rules, seniority principles and the law laid down by the Hon'ble Supreme Court.

27. **Submissions of the official respondents:-**

(i). The official respondents i.e., the Railway Administration contend that the post of Loco Pilot (Mail) is not an independent cadre but forms part of a continuous promotional hierarchy commencing from Assistant Loco Pilot to Loco Pilot (Goods), thereafter to Loco Pilot (Passenger), and finally to Loco Pilot (Mail). According to the respondents, promotion to the cadre of Loco Pilot (Mail) is necessarily governed by the seniority position existing in the feeder cadre of Loco Pilot (Passenger).

(ii). The official respondents submit that the petitioners were promoted earlier as Loco Pilot (Goods) in the year 2008 in accordance with the communal roster and applicable rules, whereas the private respondents were promoted subsequently in the year 2010. Consequently, the petitioners became senior in the feeder cadre in terms of Para 306 and Para 309 of the

Indian Railway Establishment Manual, Vol-I (Annexure-R-4), which provide that employees empanelled in an earlier panel shall rank senior to those selected subsequently.

(iii). It is further contended that while filling up 146 vacancies in the cadre of Loco Pilot (Passenger), the Railway Administration duly complied with the principles laid down in *M. Nagaraj v. Union of India* (2nd cited supra) by collecting quantifiable data relating to adequacy of representation, backwardness and efficiency of administration, as reflected in Annexure-R-5. Thereafter, the petitioners were empanelled and promoted as Loco Pilot (Passenger) vide select list dated 07.01.2016 (Annexure-R-6), whereas the private respondents were promoted subsequently vide Annexure-R-7.

(iv). According to the official respondents, once the petitioners acquired seniority in the cadre of Loco Pilot (Passenger), such seniority stood crystallized and necessarily governed further promotions to the cadre of Loco Pilot (Mail). It is their specific contention that even though the vacancies in LP(Mail) were assessed as 23 Un Reserved vacancies vide Annexure-R-8, the promotions had to be effected from amongst the senior-most eligible employees available in the feeder cadre of LP(Passenger). Since the petitioners were senior and within the zone of consideration, they were adjudged suitable vide memorandum dated 28.06.2021 (Annexure-R-9) and promoted vide proceedings dated 30.06.2021 (Annexure-R-10).

(v). The official respondents therefore contend that promotion to the cadre of Loco Pilot (Mail) cannot be treated as a fresh or standalone promotional

exercise detached from the feeder cadre seniority. According to them, once seniority had validly crystallized in the feeder cadre after compliance with the constitutional requirements laid down in *M. Nagaraj* (2nd cited supra) and *Jarnail Singh* (3rd cited supra), the same could not be reopened at every successive promotional stage.

28. **Submissions of the Private Respondents:**

(i). The private respondents belonging to the unreserved category contended that the accelerated promotions granted to the petitioners belonging to the SC/ST category, together with consequential seniority, have unlawfully disturbed the existing seniority structure in the cadre of Loco Pilot (Mail). According to the respondents, promotion to LP (Mail) constitutes an independent cadre and therefore reservation in promotion cannot automatically continue merely on the basis of seniority obtained in the feeder cadres of LP (Goods) and LP (Passenger).

(ii). The private respondents further contended that Article 16(4A) is only an enabling provision and reservation in promotion with consequential seniority can be sustained only upon strict compliance with the constitutional requirements laid down in *M. Nagaraj v. Union of India* (2nd cited supra) and reaffirmed in *Jarnail Singh v. Lachhmi Narain Gupta*. It was specifically argued that the Railway Administration failed to undertake proper cadre-specific assessment and did not collect adequate quantifiable data regarding inadequacy of representation in the cadre of LP (Mail) prior to effecting promotions.

(iii). Relying upon *Union of India v. Virpal Singh Chauhan* (8th cited supra) and *Ajit Singh Januja v. State of Punjab* (9th cited supra), the respondents contended that accelerated promotion granted through reservation cannot automatically confer consequential seniority over general category employees who were otherwise senior in the feeder cadre. It was argued that the Catch-Up Rule evolved in the aforesaid judgments protected the seniority rights of unreserved candidates and prevented excessive distortion of the promotional hierarchy.

(iv). The respondents also relied upon *Union of India v. Sajib Roy* (5th cited supra), ***Pravakar Mallick v. State of Orissa***¹⁰, the judgment of the Delhi High Court in W.P.(C) No.3490/2010, the Punjab & Haryana High Court judgment in CWP No.13218 of 2009, and the Rajasthan High Court judgment in *Union of India v. Lokesh Kumar Saini*, to contend that reservation in promotion and consequential seniority cannot be mechanically extended in the absence of strict constitutional compliance and cadre-wise determination of inadequacy.

(v). It was further contended that reservation under the constitutional scheme is intended only to ensure adequate representation and cannot operate in a manner which results in perpetual seniority advantage to reserved candidates at every successive stage of promotion. According to the respondents, once the prescribed representation in the cadre had already been achieved, further extension of reservation benefits would offend the principles laid down in *R.K. Sabharwal v. State of Punjab* (1st cited supra).

¹⁰ 1996 AIR 448

(vi). The respondents therefore asserted that the promotions granted to the petitioners to the cadre of LP (Mail), along with consequential seniority, are contrary to Articles 14 and 16 of the Constitution and sought interference of this Court.

29. Analysis, Reasoning & Finding:-

(i). At this juncture, it becomes necessary to understand the distinction between a “cadre-specific/independent promotion” and a “continuation of feeder cadre seniority” in service jurisprudence.

(ii). A promotion may be treated as an independent or cadre-specific exercise when the promotional post is filled on the basis of a separately assessed vacancy structure, separate roster application, or an independent determination of eligibility and entitlement. In such cases, the promotional cadre assumes a distinct identity and the administration is required to independently examine the applicability of reservation, seniority and other constitutional requirements at that stage itself.

(iii). On the other hand, where the promotional post merely forms part of a continuous hierarchical channel of promotion and the promotions are governed entirely by the seniority already crystallized in the feeder cadre, such promotion is treated as a continuation of feeder cadre seniority. In such a case, the higher promotional post does not constitute a fresh or standalone exercise, but only an extension of the existing promotional structure, wherein the senior-most eligible employees in the feeder cadre are considered for further promotion.

(iv). In the present case, the controversy revolves around whether the cadre of Loco Pilot (Mail), against which 23 vacancies were independently assessed as 'Un Reserved' vide Annexure-R-8, should be treated as a distinct cadre-specific promotional exercise requiring an independent application of reservation principles, or whether the same merely constitutes a continuation of the already existing seniority structure prevailing in the feeder cadre of Loco Pilot (Passenger).

(v). This Court has carefully considered the rival submissions advanced by the petitioners, the private respondents, and the official respondents with respect to reservation in promotion and consequential seniority in the cadre of Loco Pilot (Mail). The principal contention raised by the private respondents is that promotions to the cadre of LP (Mail) constitute an independent promotional exercise and therefore reservation and consequential seniority granted in the feeder cadres cannot automatically continue into the higher cadre. It was further contended that accelerated promotion granted to SC/ST employees has disturbed the seniority rights of unreserved category employees and violates Articles 14 and 16 of the Constitution.

(vi). The respondents further relied upon the judgments in *Union of India v. Virpal Singh Chauhan* (8th cited supra) and *Ajit Singh Januja v. State of Punjab* (9th cited supra) to contend that accelerated promotion through reservation cannot automatically confer consequential seniority over general category employees who were otherwise senior in the feeder cadre. According to the respondents, the Catch-Up Rule evolved in the aforesaid judgments

protected the seniority rights of unreserved candidates and prevented excessive distortion of the promotional hierarchy. Reliance was also placed upon *M. Nagaraj v. Union of India* (2nd cited supra) and *Jarnail Singh v. Lachhmi Narain Gupta* (3rd cited supra) to contend that reservation in promotion can be sustained only upon strict compliance with the constitutional requirements of cadre-specific quantifiable data and inadequacy of representation.

(vii). Per contra, the petitioners contended that the service structure governing Loco Pilots reflects a continuous and integrated promotional hierarchy beginning from LP (Goods), progressing to LP (Passenger), and thereafter to LP (Mail). It was argued that the petitioners had secured promotions in the feeder cadres in accordance with the communal roster, Article 16(4A), and the applicable Railway Rules and that the consequential seniority arising there from formed the lawful basis for subsequent promotions. The petitioners further relied upon the Constitution (Seventy-Seventh Amendment) Act introducing Article 16(4A) and the Constitution (Eighty-Fifth Amendment) Act inserting the words “with consequential seniority” to contend that the constitutional foundation of the Catch-Up Rule stood expressly removed.

(viii). At the outset, it is necessary to note that reservation in promotion for SC/ST employees received constitutional recognition through the Seventy-Seventh Constitutional Amendment introducing Article 16(4A). Subsequently, Parliament enacted the Eighty-Fifth Constitutional Amendment inserting the

words “with consequential seniority” into Article 16(4A), thereby expressly recognizing consequential seniority as an incident of reservation in promotion. The constitutional validity of Articles 16(4A) and 16(4B) was upheld by the Hon’ble Supreme Court in *M. Nagaraj v. Union of India* (2nd cited supra), wherein it was held that reservation in promotion with consequential seniority is constitutionally permissible subject to collection of quantifiable data regarding inadequacy of representation and maintenance of efficiency under Article 335. The said principles were subsequently reaffirmed and clarified in *Jarnail Singh v. Lachhmi Narain Gupta* (3rd cited supra).

(ix). This Court further notes that the constitutional amendments introducing reservation in promotion and consequential seniority effectively removed the basis of the earlier decisions in *Virpal Singh* (8th cited supra) and *Ajit Singh* (9th cited supra). Parliament, by introducing Article 16(4A) and thereafter incorporating the expression “with consequential seniority”, altered the constitutional foundation upon which the Catch-Up Rule rested. The constitutional validity of these amendments having been upheld in *M. Nagaraj* (2nd cited supra), the earlier judicially evolved principle of “catch up” Rule cannot continue to override the express constitutional mandate.

(x). The material placed before this Court reveals that the petitioners had secured promotion to LP (Goods) and LP (Passenger) in accordance with the communal roster and the prevailing rules governing reservation in promotion. Their consequential seniority in the feeder cadres formed the basis for further consideration to LP (Mail). The official respondents have specifically submitted

that cadre-specific assessment and collection of quantifiable data regarding inadequacy of representation were undertaken prior to effecting promotions in the relevant promotional cadres. Therefore, there is no substance in the contention of the private respondents that the constitutional requirements under *M. Nagaraj* (2nd cited supra) and *Jarnail Singh* (3rd cited supra) were not complied. And as such, the said contention is rejected.

(xi). This Court is also unable to accept the contention that the cadre of LP (Mail) must be treated in complete isolation detached from the feeder promotional structure. The service structure in question reflects a continuous promotional hierarchy wherein seniority and promotional entitlement in the higher cadre substantially flow from the lawful promotions obtained in feeder posts. Once promotions and consequential seniority were validly conferred in the feeder cadres, the private respondents cannot now seek to reopen or indirectly challenge those earlier promotions while assailing subsequent promotions to LP (Mail).

(xii). The principles laid down in *R.K. Sabharwal v. State of Punjab* (1st cited supra) also support the case of the petitioners. The Hon'ble Supreme Court in the aforesaid judgment held that reservation has to be examined with reference to cadre strength and overall representation and not by isolating individual vacancies. The private respondents' attempt to isolate particular vacancies in LP (Mail) without examining the integrated cadre structure and the overall representation of SC/ST employees is therefore contrary to the settled principles governing post-based reservation.

(xiii). Further, the judgment of the Hon'ble Supreme Court in *B.K. Pavitra v. Union of India* (4th cited *supra*) recognizes that consequential seniority granted pursuant to valid reservation in promotion forms part of the constitutional scheme intended to secure substantive equality for SC/ST employees in public services. The constitutional objective underlying Articles 14, 16(4A), and 46 cannot be defeated by narrowly interpreting promotional seniority in a manner that nullifies the benefits expressly protected through constitutional amendment.

(xiv). Mere concentration of SC/ST promotions in a particular promotional exercise cannot by itself invalidate reservation in promotion. As observed in *N.M. Thomas*, the correct approach is to examine representation in the cadre as a whole and not isolated promotional instance. In the present case, when the entire population of LP (Passenger) was considered, including SC/ST candidates occupying UR points on their own seniority, representation stood at 24.52% (SC–15.6% and ST–8.9%). Therefore, the promotional exercise cannot be termed excessive or constitutionally impermissible.

(xv). Accordingly, this Court holds that the validity of promotions to the post of Loco Pilot (Mail) cannot be examined in isolation by treating the cadre as wholly detached from the promotional chain existing in the feeder cadres of LP (Goods) and LP (Passenger). Promotions to LP (Mail) are liable to be assessed with reference to the integrated promotional and seniority structure governing the service. Consequently, the challenge raised by the respondents

against the accelerated promotion and consequential seniority granted to the petitioners is devoid of merit and is liable to be rejected.

30. Thus, the issue No.3 is answered in favour of the petitioners.

31. **Issue No. 4 :-**

In the present case, the core controversy revolves around whether the cadre of Loco Pilot (Mail), against which 23 vacancies were independently assessed as 'Un Reserved' vide Annexure-R-8, should be treated as a distinct cadre-specific promotional exercise requiring an independent application of reservation principles, or whether the same merely constitutes a continuation of the already existing seniority structure prevailing in the feeder cadre of Loco Pilot (Passenger).

32. **Submissions of the Writ Petitioners:**

(a). The writ petitioners, belonging to the reserved category, contend that their impugned promotions to the post of Loco Pilot (Mail) are entirely legal and valid, as they were carried out strictly on the basis of *inter-se* seniority and suitability in the feeder cadre of Loco Pilot (Passenger).

(b). The petitioners contends that because they reached the top of the seniority pool inside the normal zone of consideration, they have a legitimate right under Article 16(1) to be adjusted against the 23 Unreserved (UR) vacancies on their own merit. It is their case that since they are not claiming quota benefits for this selection, the operational conditions under Article

16(4A) such as collecting new quantifiable data on inadequacy are completely irrelevant to this selection.

(c). The petitioners rely heavily on Railway Board circular RBE No. 128/2002 to submit that a senior, suitable reserved category candidate cannot be denied promotion against an open post merely due to their community identity. Furthermore, they emphasize that all their preceding promotions in the lower cadres of Loco Pilot (Goods) and Passenger were backed by necessary quantifiable data as per *M. Nagaraj* (2nd cited supra) directives, and since the unreserved applicants failed to timely challenge those foundational feeder seniority lists within the statutory period, the Central Administrative Tribunal erred in law by quashing their promotions behind their back without even serving proper notices or affording them an opportunity to be heard, which is in violation of principles of natural justice.

33. **Submissions of the private respondents:**

(a). Per contra, the private respondents, representing the unreserved category candidates, vehemently oppose the writ petition and support the findings of the learned Tribunal. They contend that the promotion to the post of Loco Pilot (Mail) ought to have been treated as an independent promotional exercise and not as a mere continuation of the seniority prevailing in the feeder cadres of Loco Pilot (Goods) and Loco Pilot (Passenger).

(b). The private respondents contends that because the vacancies notified during the year 2021 were specifically assessed as 23 Unreserved vacancies vide Annexure-R-8, the Railway Administration was legally required to

undertake an independent consideration for filling up the said vacancies. They argue that the petitioners only attained their top positions in the feeder seniority pool by accumulating "accelerated promotions" via quota bookings in the lower ranks.

(c). Further asserted that carrying forward this accelerated seniority to occupy open-merit slots, especially when the assessed vacancies for SC/STs are explicitly declared as NIL, constitutes an invalid elongation of reservation benefits and a colourable exercise of power. The respondents heavily rely on RBE No. 117/2016 and the explicit undertaking given by the learned Solicitor General of India before the Apex Court, which placed a strict embargo on considering reserved category candidates against 'Un Reserved' points. The private respondents contend that since the older enabling policy under RBE 126/2010 was quashed by various High Courts, and because the Railway Administration never carried out a valid preliminary exercise to collect cadre-specific quantifiable data regarding inadequacy and administrative efficiency under Article 335 post-*M. Nagaraj*, the entire seniority list and the resulting promotions are non est in law and must be set aside.

34. **Analysis, Reasoning & Finding:-**

(a). The principal contention advanced by the unofficial respondents is that the post of Loco Pilot (Mail) constituted a distinct promotional cadre and, since all twenty-three vacancies assessed in the year 2021 were admittedly unreserved, the Railway Administration was obliged to undertake an

independent exercise in relation to the said cadre without taking into account the consequential seniority enjoyed by the petitioners in the lower cadres.

(b). At the outset, it is very apt to note that the petitioners belonging to the Scheduled Castes and Scheduled Tribes were promoted to the cadre of Loco Pilot (Goods) in the year 2008 in accordance with the rules prevailing at the relevant point of time. Thereafter, upon assessment of 146 vacancies in the cadre of Loco Pilot (Passenger), reservation in promotion was extended after collecting quantifiable data with respect to inadequacy of representation and efficiency in administration, as contemplated in Article 16(4A) read with Article 335 of the Constitution, and in conformity with the principles enunciated by the Constitution Bench in *M. Nagaraj v. Union of India* (2nd cited supra).

(c). In *Jarnail Singh v. Lachhmi Narain Gupta* (3rd cited supra), the Supreme Court reaffirmed the constitutional validity of Article 16(4A) and reiterated that reservation in promotion with consequential seniority remains permissible, subject to satisfaction of the conditions indicated in *M. Nagaraj* (2nd cited supra). The requirement relating to backwardness was dispensed with, while the necessity of examining adequacy of representation and administrative efficiency was retained.

(d). The materials placed on record reveal that while effecting promotions to the post of Loco Pilot (Passenger), the Railway Administration examined:

- inadequacy of representation of SC/ST employees;
- the ceiling limit prescribed by the Supreme Court;
- efficiency in administration under Article 335; and

- the absence of any relaxation in standards inasmuch as the post constituted a safety category post.

(e). Therefore, the contention that no exercise under *M. Nagaraj* (2nd cited *supra*) was undertaken is contrary to the record. Once the petitioners were validly promoted to the cadre of Loco Pilot (Passenger), their inter se seniority became governed by Para 306 of the Indian Railway Establishment Manual, which provides that employees selected in an earlier panel shall rank senior to those selected in a subsequent panel, irrespective of the date of posting.

(f). The private respondents admittedly entered into the cadre of Loco Pilot (Passenger) only in the year 2018, whereas the petitioners had already been empanelled and promoted in the year 2016. Consequently, the petitioners occupied a higher position in the seniority list.

(g). The contention that the cadre of Loco Pilot (Mail) ought to be viewed in isolation and detached from the feeder cadre hierarchy is against to the settled principle of law that promotion is a continuation of service and not a fresh appointment.

(h). In *Ajit Singh (II) v. State of Punjab* (9th cited *supra*), the Supreme Court explained the concepts of accelerated promotion and consequential seniority. Parliament thereafter inserted Articles 16(4A) and 16(4B) and further enacted the Eighty-fifth Constitutional Amendment, thereby expressly recognizing the grant of consequential seniority to Scheduled Castes and Scheduled Tribes. The validity of the said constitutional scheme was upheld in *M. Nagaraj* (2nd cited *supra*) and subsequently reaffirmed in *Jarnail Singh* (3rd cited *supra*).

(i). Therefore, once consequential seniority had validly accrued to the petitioners in the cadre of Loco Pilot (Passenger), the same formed part of the existing service structure and could not be ignored while considering promotions to the next higher cadre.

(j). The submission that each cadre requires an independent and fresh application of Article 16(4A) is misconceived. Reservation under Article 16(4A) was invoked only at the stage of promotion to Loco Pilot (Passenger). Promotion to Loco Pilot (Mail) was not affected by applying reservation.

(k). The record clearly demonstrates that twenty-three vacancies in the cadre of Loco Pilot (Mail) were assessed as unreserved vacancies. The petitioners were considered not because they belonged to Scheduled Castes or Scheduled Tribes, but because they occupied senior positions in the feeder cadre and fell within the zone of consideration.

(l). The law is well settled that a candidate belonging to a reserved category is not disentitled from competing for or occupying an unreserved post merely because he belongs to a reserved class.

(m). In *Indra Sawhney v. Union of India*, 1992 (7th cited supra), the Constitution Bench held that candidates belonging to reserved categories who are selected on their own merit cannot be counted against reserved quota.

(n). Similarly, in *R.K. Sabharwal v. State of Punjab* (1st cited supra), the Supreme Court explained that reservation operates through the principle of

replacement and that appointments made against unreserved posts are to be treated as unreserved appointments.

(o). Therefore, merely because the petitioners belong to Scheduled Castes and Scheduled Tribes, they cannot be denied consideration against unreserved vacancies when they otherwise stand senior in the feeder cadre.

(p). The reliance placed by the respondents on RBE No.117/2016 is equally misplaced. The said circular merely kept RBE No.126/2010 in abeyance and was intended to ensure compliance with the ongoing proceedings before the Hon'ble Supreme Court. The circular did not obliterate the existing seniority already acquired by employees nor did it prohibit members of the Scheduled Castes and Scheduled Tribes from being considered against unreserved vacancies on the basis of merit and seniority.

(q). Likewise, RBE No.91/2018 expressly contemplated continuation of promotions on a provisional basis pending adjudication of the disputes before the Supreme Court. In view of the operational requirements of the Railways and the safety-sensitive nature of the posts involved, the administration was justified in continuing promotions subject to the outcome of litigation.

(r). To accept the contention of the private respondents would amount to reopening promotions granted nearly a decade earlier and unsettling settled seniority positions, which is impermissible in-service jurisprudence.

35. Accordingly, this Court holds that the cadre of Loco Pilot (Mail) cannot be viewed in isolation from the feeder cadres of Loco Pilot (Goods) and Loco

Pilot (Passenger). Promotions to the post of Loco Pilot (Mail) constituted a continuation of the existing promotional hierarchy and were governed by the inter se seniority prevailing in the cadre of Loco Pilot (Passenger). Since the twenty-three vacancies in the cadre of Loco Pilot (Mail) were filled purely on the basis of seniority and suitability and not by invoking reservation under Article 16(4A), the petitioners were validly considered and promoted against the said vacancies. Their promotions do not suffer from any illegality warranting interference of this Court.

36. Accordingly, this issue No.4 is answered in favour of the petitioners.

37. We may summarise the findings recorded hereinabove while answering the issue Nos.1 to 4 as under:

i) The reservation in promotion for SC/ST employees received constitutional recognition through the 77th Constitutional amendment by introducing Article 16(4A).

(ii) Subsequently, the Parliament enacted the 85th Constitutional amendment inserted the words “with consequential seniority” into the Article 16(4A), thereby, expressly recognizing the consequential seniority as an incident of reservation in promotion.

(iii) The Constitutional validity of Articles 16(4A) and 16(4B) was upheld by the Hon’ble Supreme Court in *M.Nagaraj v. Union of India* (2nd cited supra) wherein, it was held that reservation in promotion with consequential seniority is Constitutionally permissible subject to collection of quantifiable data

regarding the inadequacy of representation and maintenance of efficiency under Article 335.

(iv) In the light of the ruling of the Hon'ble Supreme Court in *M.Nagaraj Vs. Union of India* (2nd cited supra) wherein, Article 16(4A) and 16(4B) were upheld as constitutionally valid or not destructive of the Basic Structure of the Constitution and once the constitutional safeguards laid down in the said judgment stand satisfied, consequential seniority becomes a legally sustainable and permissible incident of reservation in promotion.

38. Accordingly, this Court holds that:

(i) Consequent upon the 85th amendment of the Constitution of India coming into force, the earlier judicially evolved principle of 'catch up' rule flowing from *Virpal Singh* (8th cited supra) and *Ajit Singh* (9th cited supra) lost their operative force and it cannot continue to override the express constitutional mandate by introducing Article 16(4A) by the Parliament.

(ii) In the light of the settled law, we hold that the candidates belonging to reserved category is not disentitled from competing from or occupying an unreserved post merely because he belongs to a reserved class.

(iii) In the light of the settled law, this Court holds that candidates belong to reserved category, who are selected on their own merit cannot be counted against the reserved quota.

(iv) It is further held that merely because the petitioners belong to SC/ST category, they cannot be denied consideration against the unreserved vacancies when they otherwise stand senior in the feeder category.

39. For the aforesaid reasons and in view of the findings recorded hereinabove, we pass the following order:

(a) The W.P.Nos.28441 of 2025 & 1865 of 2026 are hereby allowed.

(b) Consequently, the orders, dated 21.10.2024 passed in O.A.No.020/0360/2022 and O.A/020/0361/2022 on the file of the Central Administrative Tribunal, Hyderabad Bench, are hereby quashed.

(c) There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE BATTU DEVANAND

JUSTICE SUBHENDU SAMANTA

Dated: 17.07.2026

PKR

THE HON'BLE SRI JUSTICE BATTU DEVANAND
AND
THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

WRIT PETITION Nos. 28441 of 2025 & 1865 of 2026

Dated: 17.07.2026

PKR