

(33)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD.

O.A.NO. 121/89

DATE OF JUDGMENT: 3.5.1995

BETWEEN:

1. K.Krishna Rao
2. P.Bhaskara Reddy
3. V.S.Janardhan
4. V.Venkateswara Rao
5. B.Narasaiah
6. B.Ramanjaneyulu

.. Applicants

and

1. Divisional Rly Manager(Pers.)
SCRly, Guntakkal Division, Guntakkal
2. Divisional Operating Superintendent
Guntakkal Division, SCRly, Guntakkal
3. Chief Personnel Officer, SCRly
Sec'bad
4. Union of India rep by Secretary(Estt.)
Railway Board New Delhi
5. M.Uligamma, Chief Clerk, DOS's Office
SCRly, Guntakkal

COUNSEL FOR THE APPLICANT: SHRI G.V. SUBBA RAO

COUNSEL FOR THE RESPONDENTS: SHRI N.R. DEVRAJ
Sr./Addl.CGSC

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN
HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

CONTD....

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ORDERAs per Hon'ble Shri R.Rangarajan, Member(Admn)

Heard Shri GV Subba Rao learned counsel for the applicant and Shri NR Devraj, Standing Counsel for the respondents.

2. There are six applicants in this OA who are working as Head Clerks in the office of the Divisional Operating Superintendent, South Central Railway, Guntakkal Division and they all belong to OC community. They pray for a declaration that filling up of the posts of Chief Clerks in the grade of Rs.1600-2660 (RSRP) by the candidates belonging to scheduled castes and scheduled tribe communities in excess of the reservation of $22\frac{1}{2}\%$ in the cadre as provided under the Constitution as illegal, arbitrary unconstitutional, violative of Art. 14 and 16 of the Constitution of India and for a consequential direction to the respondents to consider the cases of the applicants for selection to the post of Chief Clerks in the grade of Rs.1600-2660(RSRP) taking into consideration their seniority from the date of initial appointment.

3. An interim order dated 15.2.1989 has been issued in this OA relevant portion of which reads as under:

".....we direct that during the pendency of this OA, the vacancies available from time to time in regard to filling up of posts of Chief Clerks in the scale of pay of Rs.1600-2660 will be filled up in accordance with 40 point roster system subject to the condition that the posts held by the members of the Scheduled Castes and scheduled tribes do not exceed 15% and $7\frac{1}{2}\%$ respectively at any given point of time. However, if a person belonging to the scheduled caste or scheduled tribe is promoted on his own merits and not in a reserved vacancy, then for the purpose of this interim order, such appointment will be excluded while computing the required percentage....."



TO

1. The Divisional Railway Manager(Pers.)
S.C.Rly, Guntakal Division, Guntakal.
2. The Divisional Operating Superintendent
Guntakal Division, S.C.Rly, Guntakal.
3. The Chief Personnel Officer, S.C.Rly, Secunderabad.
4. The Secretary(Estt.) Railway Board,
Union of India, New Delhi.
5. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

pvm

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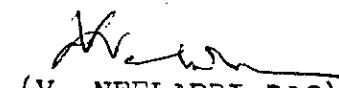
..3..

4. It was held by the Apex Court in Sabharwal's case (1995(1)SCALE 685) that the quota for SCs and STs is only in the number of posts and not in vacancies and hence, 40 point roster has to be followed for initial filling up of the posts of operated cadre strength and subsequent vacancies have to be filled up by the category which is referable to the category of the candidates in regard to whom the vacancies had arisen. It is further held that the principle enunciated in the said Judgement in Sabharwal case which was disposed of on 10.2.95 is prospective so that the settled matters cannot be unsettled.

5. As it is observed by the Apex Court that the Judgement in Sabharwal case which was pronounced on 10.2.1995 is prospective it follows that the promotions that were made till 10.2.1995 on the basis of the interim order cannot be held as illegal. Accordingly, the interim order has to be made as final order in this OA.

6. As such, the interim order dated 15.2.1989 in the OA is treated as final order in this OA in regard to promotions that were made upto and inclusive of 10.2.1995. Promotions subsequent to 10.2.95 shall be made in accordance with the principle enunciated in Sabarwal case. OA is ordered accordingly. No costs.

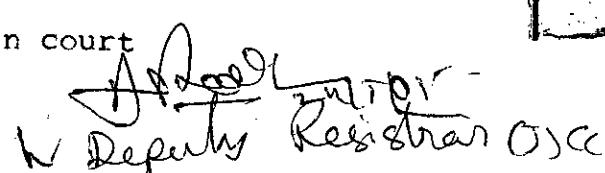

(R. RANGARAJAN)
Member (Admn)


(V. NEELADRI RAO)
Vice-Chairman

Dated: 03rd May, 1995

Dictated in the open court

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Deputy Registrar OAC

THPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMN)

DATED 3/15 1995.

ORDER/JUDGMENT:

M.A./R.A./C.A. No.

in
OA. No. 121/89

TA. No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

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