

(23)

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

O.A. NO. 184/89

DATE OF JUDGMENT: 4.5.95

BETWEEN:

P.I. Bhaskar Singh ... Applicant
and

1. Union of India rep by Secretary(Estt.)
Railway Board, Rail Bhavan, New Delhi.
2. Chief Personnel Officer, SCRly, Sec'bad
3. Chief Medical Officer, SCRly, Sec'bad
4. Medical Superintendent, SCRly, Hubli Division, Hubli
5. Sri C.Jangaiah, Chief Clerk, Rly Hospital, Lallaguda
Sec'bad

COUNSEL FOR THE APPLICANT: SHRI

G.V. SUBBA RAO

COUNSEL FOR THE RESPONDENTS: SHRI

N.R. DEVRAJ

Sr./~~Adv.~~ 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.

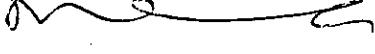
2. There is only one applicant in this OA belonging to OC community and he was ~~working~~ as Chief Clerk in the grade of Rs.1600-2660 under the control of R4 at the time of filing this OA. His prayer is for a declaration that filling up of the post of office superintendent in the grade of Rs.2000-3200(RSRP) by the candidates belonging to scheduled castes and scheduled tribe communities in excess of the reservation of 22½% in the cadre as provided under the constitution is illegal, arbitrary, unconstitutional, violative of Art. 14 and 16 of the Constitution of India and for a consequential direction to the respondents to fill up the said vacancy and future vacancies in the cadre of Office Superintendent by promoting the applicant herein according to his seniority in the cadre of Chief Clerk and also taking into consideration his date of initial ~~xx~~ date of appointment.

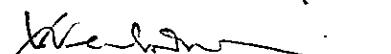
3. An interim order dated 13.3.1989 has been issued in this OA relevant portion of ~~which~~ which reads as under:
"We direct that during the pendency of this OA, the vacancies available from time to time in regard to filling up of posts of Superintendents in the scale of Rs.2000-3200 will be filled 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 7½% 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....."

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.

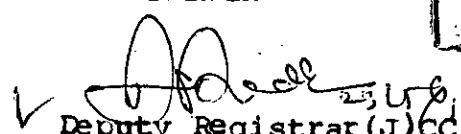
5. As it is observed by the Apex Court that the Judgement in Sabharwal case which was pronounced on 10.2.1995 is prospective it follows that the promotions that were made till 10.2.1995 on the basis of the interim order cannot be held as illegal. Accordingly, the interim order has to be made as final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

6. As such, the interim order dated 13.3.89 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 10.2.1995 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: 04th May, 1995
Dictated in the open court


Deputy Registrar (J) CC

To

1. The Secretary(Estt.) Railway Board, Union of India,
mvl Railbhavan, New Delhi.
2. The Chief Personnel Officer, S.C.Rly, Secunderabad.
- 3 The Chief Medical Officer, S.C.Rly, Secunderabad.
4. The Medical Superintendent, S.C.Rly, Hubli, Division, Hubli.
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.

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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 14-5-95 1995.

ORDER/JUDGMENT:

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

OA. No.

184/95

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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