

31

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

O.A.NO. 188/89

DATE OF JUDGMENT: 5.5.95

BETWEEN:

1. Sri B.Ranga Rao
2. Smt. D.Sasikala
3. Sri M.C.Nanji Reddy
4. Sri Syed Fakruddin
5. Smt. D.N.M.P.T.Devi
6. Sri S.Reddy Ramakao
7. Sri K.Ramachandra Sarma
8. Sri M.Mahaboob Ali Khan
9. Sri T.Narayana
10. Smt. N.Aruna Kumari

.. Applicants.

A N D

1. Union of India, Rep. by Secretary (Estb)
Railway Board, Rail Bhavan, New Delhi.
2. The Chief Personnel Officer, S.C.Railway,
Rail Nilayam, Secunderabad - 500 371.
3. The Divisional Railway Manager (Personnel),
South Central Railway, Guntakal Division,
Guntakal.
4. The Senior Divisional Engineer/Coordination.
S.C.Railway, Guntakal Division, Guntakal. .. Respondents.

COUNSEL FOR THE APPLICANT: SHRI G.V.Subba Rao

COUNSEL FOR THE RESPONDENTS: SHRI P.Venkat Ram Reddy
Sr./Addl.CGSC

CORAM:

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

CONTD.....

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

Heard Mr.G.V.Subba Rao, learned counsel for the applicant and Mr.P.Wenkat Ram Reddy, learned standing counsel for the respondents.

There are 10 applicants in the OA who are working as Senior Clerks in the Grade of 1200-2040 (RSRP) under the control of R4. They all belong to OC community and their next avenue of promotion is to the category of Head Clerk in the grade of 1400-2300 (RSRP). They pray for a declaration that the filling up of the post of Head Clerk in grade Rs.1400-2300 (RSRP) by the candidates belonging to the Scheduled Castes and Scheduled Tribes in excess of the reservation of 15% and 7½ % respectively as provided under the Constitution, as illegal, arbitrary, unconstitutional and violative of Articles 14 and 16 of the Constitution of India, and consequently direct the respondents to fill up the said vacancy and future vacancies in the cadre of Head Clerks, by promoting the applicants according to their seniority in the cadre of Senior Clerks taking into consideration their date of initial appointment and also to ensure that the prescribed percentage is maintained by reverting the persons who have been promoted in excess of the quota prescribed for the respective communities in accordance with the 40 point roster which is illegal and unconstitutional.

An interim order dt. 20.3.89 has been issued in this OA, relevant portion of which reads as under:-

"It is directed that during the pendency of this OA, the vacancies available from time to time in regard to filling up of posts of Head Clerks in the pay scale of Rs.1400-2300 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 SC or ST 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".

..4..

To

1. The Secretary(Estt), Union of India,
Railway Board, Rail Bhavan, New Delhi.
2. The Chief Personnel Officer, South Central Railway,
Railnilayam,Secunderabad - 500 371.
3. The Divisional Railway Manager,(Personnel)
South Central Railway, Guntakal Division,
Guntakal.
4. The Senior Divisional Engineer/Coordination
South Central Railway, Guntakal Division,
Guntakal.
5. One copy to Mr.G.V.Subba Rao, Advocate,CAT,Hyderabad.
6. One copy to Mr.P. Venkata Rami Reddy, Addl.CGSC,CAT,Hyderabad.
7. One copy to Library,CAT,Hyderabad.
8. One spare copy.

YLKR

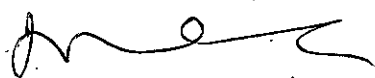
...3...

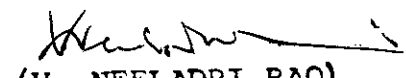
33

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 20.3.89 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 Sabharwal case. OA is ordered accordingly. No costs. /


(R. RANGARAJAN)
Member (Admn)

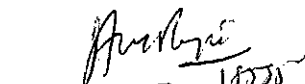

(V. NEELADRI RAO)
Vice-Chairman

Dated: 5th May, 1995

Dictated in the open court

Dictated in the open court

mvl


D.R. (S)

Contd. ---

TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

V. Needadri Rao V.C.

THE HON'BLE SHRI A.V. HARIDASANI: MEMBER (J)

AND

R. Ranganathan

THE HON'BLE SHRI A.B. GORTHI: MEMBER (J)

DATED 5.5.95

ORDER/JUDGMENT

M.A.NO/R.P.NO./C.P.NO.

in

O.A.NO. 188/89.

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered.

No order as to costs.

YLKR

