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

O.A.NO. 189/89

DATE OF JUDGMENT: 5.5.95

BETWEEN:

1. Sri K.Ramachandraiah
2. " K.Seshapani
3. " P.Sankaranarayana
4. " K.Narayana Rao
5. " L.Raghunatha Reddy
6. " V.Venkatrama Reddy
7. " T.Venkatesulu
8. " P.Tulsi Rangam
9. " K.Peeram Sahib
10. " V.Subbarami Reddy .. Applicants.

A N D

1. Union of India, Redp. by Secretary (Estt)
Railway Board, Rail Bhavan, New Delhi.
2. The Chief Personnel Officer, South Central
Railway, Rail Nilayam, Secunderabad-500371.
3. The Divisional Railway Manager (Personnel),
South Central Railway, Guntakal Division,
Guntakal.
4. The Senior Divisional Engineer/Coordination,
South Central Railway, Guntakal Division,
Guntakal. .. Respondents.

COUNSEL FOR THE APPLICANT: SHRI G.V.Subba Rao
N.R. Devraj
COUNSEL FOR THE RESPONDENTS: SHRI P.Venkatarama-Reddy
Sr./Asst. CGSC

CORAM:

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

CONTD.....

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O.A.No.189/89

Date of Order: 5.5.95

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

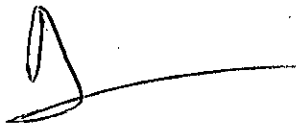
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Heard learned counsel for both the parties.

There are 10 applicants in the OA who are working as Head Clerks under the control of R4. They all belong to OC community and their next avenue of promotion is to the category of Chief Clerks in the grade of Rs.1600-2660 (RSRP). Their prayer in this OA is for a declaration that filling up of the posts of Chief Clerks in grade Rs.1600-2660 (RSRP) by the candidates belonging to the Scheduled Castes and Scheduled Tribes communities in excess of the reservation of 15% and 7½% respectively as provided for in 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 vacancies and future vacancies in the cadre of Chief Clerks by promoting the applicants according to their seniority-cum-suitability in the cadre of Head Clerks taking into consideration their date of initial appointment, and also to ensure that the percentages of 15% and 7½% are maintained by reverting the persons who have been promoted in excess of the quotas prescribed for the Scheduled Castes and Scheduled Tribe communities.

An interim order dated 15.3.89 has been issued in this OA, relevant portion of which reads as follows:-

"We direct that during the pendency of this OA, the vacancies available from time to time in regard to filling of posts of Chief Clerk will be filled up in accordance with 40 point roster system subject to the condition that the posts held by the members of the SCs and STs do not exceed 15% and 7½% respectively at any given point of time and that if a person belonging to the SCs and STs 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."



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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 Sabharwal case. OA is ordered accordingly
No costs.

[Signature]

(R. RANGARAJAN)
Member(Admn)

[Signature]
(V. NEELADRI RAO)
Vice-Chairman

Dated: 5th May, 1995

[Signature]
Deputy Registrar(J)CC

Dictated in the open court

Dictated in the open court

To

1. The Secretary (Estt.) Railway Board, Railbhavan, mvl Union of India, New Delhi.
2. The Chief Personnel Officer, S.C.Rly Railnilayam, Sec'bad.
3. The Divisional Railway Manager(Personnel) S.C.Rly, Guntakal Division, Guntakal.
4. The Senior Divisional Engineer/Co-ordination, S.C.Rly, Guntakal Division, Guntakal.
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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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 5-5-95 1995.

~~ORDER/JUDGMENT:~~

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

OA.No.

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.

No Spare COPY

