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

O.A.NO. 215/89

DATE OF JUDGMENT: 8.5.95

BETWEEN:

1. N.Potha Raju
2. Ahmed Mohiuddin
3. T.V.Ganapthy
4. V.Suryanarayana
5. A.R.Naha
6. A.Venugopala swamy

.. Applicants

and

1. Secretary(Estt.)Railway Board, Rail Bhavan, New Delhi.
2. Chief Pers.Officer, SCRly, Rail Nilayam, Sec'bad
3. Chief Engineer (Open Line) SCRly, Sec'bad.

.. Respondents

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

COUNSEL FOR THE RESPONDENTS: SHRI D. GOPALA RAO
Sr./Addl.CGSC

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

CONTD....

(51)

ORDER

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


Heard Shri G.V.Subba Rao, learned counsel for the applicant and Shri D.Gopala Rao, Standing Counsel for the respondents.

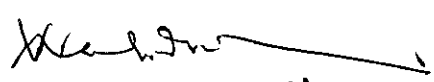
2. There are six applicants in this OA who belong to OC community and working as Senior Clerks under the administrative control of R3. The next avenue of promotion for them is to the category of Head Clerks in the grade of Rs.1400-2300. Their prayer in this OA is for a declaration that filling up of the posts of Head Clerks in the Grade of Rs.1400-2300 in the Civil Engineering Branch of the Head Quarters unit, SCRLy by the candidates belonging to SC and ST communities in excess of the reservation of 15% and 7½% respectively as provided under the Constitution as illegal, arbitrary, unconstitutional and violative of Art. 14 and 16 of the Constitution and for a consequential direction to the respondents to fill up the said vacancies and future vacancies in the grade of Head Clerks in scale of Rs.1400-2300 by considering the applicants herein according to their seniority in the cadre of Sr.Clerks in the grade of Rs.1200-2040 taking into consideration their date of initial appointment and also to ensure that the prescribed percentage of 15% and 7½% reservation to SCs and STs respective are maintained by reverting the previous persons who have been promoted in excess of the quotas prescribed for the respective communities and to direct the respondents not to implement the 40 point roster which is illegal.
3. An interim order dated 20.3.89 has been issued in this OA operative portion of which reads as under:
- "It is directed that during the pendency of the 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 the 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 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 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: 8th May, 1995

Dictated in the open court


Deputy Registrar(J)

To

1. The Secretary (Estt.) Railway Board, Railbhavan, New Delhi.
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2. The Chief Personnel Officer, S.C.Rly, Railnilayam, Secunderabad
3. The Chief Engineer(Open Line) S.C.Rly, Railnilayam, Sec'bad.
4. One copy to Mr. G.V.Subba Rao, Advocate, CAT.Hyd.
5. One copy to Mr.D.Gopal Rao, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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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 8/5 1995.

~~ORDER~~/JUDGMENT:

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

in
OA.No. 215 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.

