

(87)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

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O.A.No.266/89

Dt.of order:01st May,1995

Between

1. M.Saifuddin

2. N.D.Muzumdar

.. Applicants

and

1. Divisional Rly Manager,  
South Central Railway  
Vijayawada Division  
Vijayawada

2. The General Manager,SCRly,Sec'bad

3. The Chairman, Railway Board,New Delhi

... Respondents

Counsel for the applicant :: Mr.V. Rama Rao

Counsel for the Respondents :: Mr NR Devraj,Sr.CGSC

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RO, VICE-CHAIRMAN

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

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

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

2. Both the applicants in the OA belong to OC community and are working as Passenger Guards at the Rajahmundry Railway Station under Vijayawada Division of South Central Railway. Their next promotion is to the category of Mail/Express Guards. They pray for a direction

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to the respondents to promote them and other eligible candidates belonging to general categories in the present vacancies in the cadre of Mail/Express Service Guards and for a direction to the respondents not to promote any SC/ST candidates on the basis of 40 point roster system against the existing vacancies in the cadre of Mail/Express Guards by way of reservation and for a further declaration that the promotion given to SC/ST categories over and above 22½% of the posts at any given point of time in the category of Mail/Express service Guards under 40 point roster system are arbitrary, illegal and violative of Art.14 and 16 of the Constitution of India.

3. An interim order dated 10.4.1989 has been issued in this OA 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 the posts of Mail/Express Service Guards in Vijayawada Division 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. ...."

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

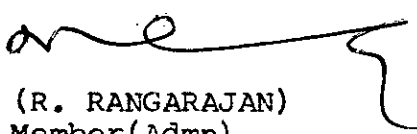
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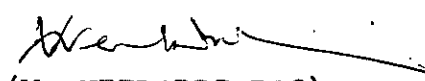
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in Sabharwal case which was disposed of on 10.2.1995 is prospective so that the settled matters cannot be unsettled.

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 promotion 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.

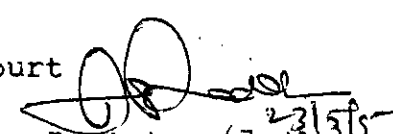
6. As such, the interim order dated 10.4.1989 in the OA is treated as final order in this OA in regard to promotions that were made upto and inclusive of 10.2.1995 to the category of Mail/Express Guards. Promotions subsequent to 10.2.1995 shall be in accordance with the principle enunciated in Sabharwal Case. OA is ordered accordingly. No costs./

  
(R. RANGARAJAN)  
Member(Admn)

  
(V. NEELADRI RAO)  
Vice-Chairman

Dated: 01st May, 1995

Dictated in the open court

  
Dy. Registrar(Judl.)

mvl

Copy to:-

1. Divisional Railway Manager, S.C.Railway, Vijayawada Region, Vijayawada.
2. The General Manager, S.C.Railway, Secunderabad.
3. The Chairman, Railway Board, New Delhi.
4. One copy to Sri. V.Rama Rao, advocate, CAT, Hyd.
5. One copy to Sri. N.R.Devaraj, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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OA 266/87

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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 --- 11/5 --- 1995.

ORDER/JUDGMENT: ~~~~~

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

OA.No.

in 266/87

TA.No.

(W.P.)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions.

Dismissed.

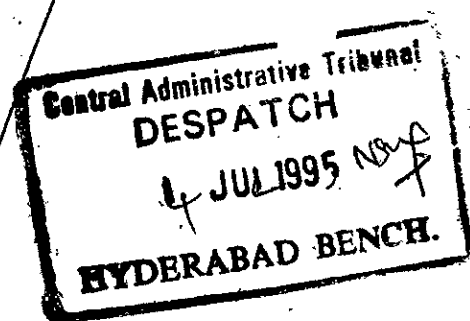
Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No. order as to costs.

No spare copy



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