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

O.A.NO. 286/89

DATE OF JUDGMENT: 28-4-95.

BETWEEN:

1. S.Bhadrachalam Reddy
2. P.Laxminarayana Naidu
3. P.Subramanya Reddy
4. E.Radhakrishna Nair

... Applicants

And

1. Union of India per General Manager,
South Central Railway, Rail Nilayam,
Sec'bad.
2. The Chief Workshop Manager,
Signal & Telecommunication Workshops,
S.C.Railway, Mettuguda, Sec'bad.
3. The Chairman, Railway Board,
New Delhi.

... Respondents

COUNSEL FOR THE APPLICANT: SHRI G.Ramachandra Rao

COUNSEL FOR THE RESPONDENTS: SHRI N.R.Devaraj,
Sr./AGRA.CGSC

CORAM:

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

CONTD.... 2.

OA 286/89.

Dt. of Order: 28-4-95.

(Order passed by Hon'ble Shri R.Rangarajan, Member (A)).

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This O.A. has been filed by 4 applicants who are Head Clerks at the time of filing this O.A. in the S & T S Workshop, South Central Railway. They belong to OC Category. The prayer in this O.A. is for a direction to the Respondents not to make any further appointments or promotions of candidates belonging to Scheduled Tribe in the category of the post of Chief Clerk in the Signal & Telecommunication Workshops, South Central Railway, Mettuguda, Secunderabad in excess of quota of reservation of $7\frac{1}{2}\%$ in pursuance of the notification No.80273/ EST/VIII DT. 4-11-88 issued by Respondent No.2. An interim order dt.10-4-89 has been issued, which reads as under :-

"We direct that during the pendency of this O.A., the vacancies available from time to time in regard to filling up of the posts of Chief Clerks in the Signal & Telecommunication Workshops, SCR., Mettuguda, Secunderabad, 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 $7\frac{1}{2}\%$ respectively at any given point of time and that if a person belonging to the SCs or 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."

The above said interim order had been confirmed by the Full Bench in its order dt.27-11-91.

2. This O.A. was filed on the basis of the Judgement of the Allahabad High Court in 1978 (1) SLR 844 (J.C.Malik Vs. Union of India), which was being followed by Madhya Pradesh High Court and also Punjab and Haryana High Court. The principle underlining the Malik's case was approved by the Constitution Bench of the Apex Court in 1995 (1) SCALE 685 (R.K.Sabharwal Versus State of Punjab).

3. It was held by the Apex Court in Sabharwal case 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 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.

5. It is further held that the principle enunciated in the said judgement in Sabharwal case which was disposed of on 10-2-1995 is prospective, so that the settled matters cannot be unsettled.

6. Basing on the same TA 872/86 (WP 1871/85) was dismissed.

7. As it is observed by the Apex Court that the Judgement

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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 O.A.

8. As such, the interim order dt. 10-04-1989 in the in the Original Application is treated as final order in this O.A. in regard to promotions that were made upto and inclusive of 10-2-95. Promotions subsequent to 10-2-1995 shall be in accordance with the principle enunciated in Sabharwal case.

No costs. O.A. ordered accordingly. /



(R.RANGARAJAN)
Member (A)



(V.NEELADRI RAO)
Vice-Chairman



Deputy Registrar (Judl.)

Dt. 28th April, 1995.
Dictated in Open Court.

av1/ Copy to:-

1. General Manager, South Central Railway, Railnilayam, Union of India, Secunderabad.
2. The Chief Workshop Manager, Signal & Telecommunications Workshops, S.C.Railway, Mettuguda, Secunderabad.
3. The Chairman, Railway Board, New Delhi.
4. One copy to Sri. G.Ramachandra 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-286/89

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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 28/4/ 1995.

ORDER/JUDGMENT:

M.A./R.A./G.A. No.

OA. No. in 286/89

TA. No. (W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

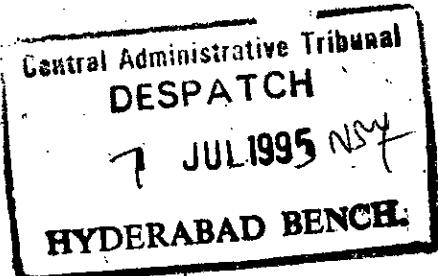
Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No. order as to costs.

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