

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

O.A.NO. 289/89

DATE OF JUDGMENT: 3.5.1995

BETWEEN:

1. K. Venkatadas
2. M. Thippeswamy
3. M.C.V.S.Sarma
4. J.V.Narayana Reddy

.. Applicants

and

1. Secretary (Establishment)
Rly Board, Rail Bhavan, New Delhi.
2. The Chief Personnel Officer
SCRly, Rail Nilayam, Sec'bad
3. Senior Divisional Personnel Officer
SCRly, Guntakkal

.. Respondents

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

COUNSEL FOR THE RESPONDENTS: SHRI N.R. DEVRAJ
Sr./Adl.CGSC

CORAM:

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

CONTD.....

(22)

O.A.No.289/89

Dt.of order:03rd May,1995

ORDER

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

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

2. There are four applicants in this OA who were working as Head Clerks under R-3 in Guntakkal Division of South Central Railway and belong to OC community have filed this OA praying for a direction to the respondents to fill up the existing vacancies of Chief Clerks in the grade of Rs.1600-2660(RSRP) in the Chief Clerks cadre of the Personnel Branch of the Divisional Railway Manager's office of South Central Railway by considering the applicants herein Guntakkal/ and for a declaration that promotions given to candidates belonging to SC/ST communities in excess of 15 and 7½% respectively as provided for under the Constitution is illegal, arbitrary, unconstitutional and violative of Art.14 & 16 of the Constitution.

3. An interim order dated 12.4.1989 has been issued in this OA, operative portion of 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 vacancies of Chief Clerks in the scale of pay of Rs.1600-2660 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 the 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 ~~xxxx~~ excluded while computing the required percentage..... "

...3



Copy to:-

1. Secretary(3stt), Railway Board,
Rail Bhavan, New Delhi.
2. The Chief Personnel Officer, South
Central Railway, Rail Nilayam, Secunderabad.
3. Senior Divisional Personnel Officer, South
Central Railways, Guntakkal,
4. One copy to Shri G.V. Subba Rao, Advocate, CAT, Hyd.
5. One copy to Shri N.R. Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare .

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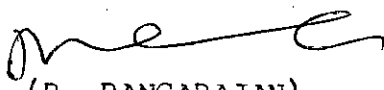
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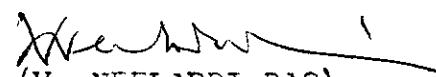
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4. It was held by the Apex Court in Sabharwal's case (1995(1) SCALE 685) that the quota for SCs and STs is only in the number of posts and not in vacancies and hence, 40 point roster has to be followed for initial filling up of the posts of operated 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 12.4.89 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: 03rd May, 1995

Dictated in the open court

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Dy. Registrar (Judl)

04.289/89

THPED BY

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 3-11 1995.

~~ORDER/JUDGMENT.~~

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

OA.No.

in

~~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

