

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

O.A.NO. 390/89

DATE OF JUDGMENT: 3.5.1995

BETWEEN:

1. G.Mutalik
2. Syed Khaja Fariduddin
3. M.S.Londhe
4. R.Chidanand
5. Ch.Subba Rao
6. R. Satyanarayana

... Applicants

and

1. Secretary (Est.) Rail Bhavan, New Delhi
2. The Chief Personnel Officer, SCRly, Rail Nilayam, Sec'bad
3. The Chief Electrical Engineer, SCRly, Sec'bad Rail Nilayam
4. The Chief Project Manager, Railway Electrification  
SCRly, Vijayawada

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI GV Subba Rao

COUNSEL FOR THE RESPONDENTS: SHRI NR Devraj  
Sr./Addl.CGSC

CORAM:

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

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

CONTD....

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 six applicants in this OA who are working as Head Draughtsman in the Electrical Branch of the South Central Railway under the Administrative control of R3. They pray for a declaration that filling up 6 vacancies of Chief Draughtsman in the grade of Rs.2000-3200(RSRP) by candidates belonging to the SC and ST communities observing the 40 point roster in excess of the reservation of 15 and 7½% respectively as provided for in the Constitution is illegal, arbitrary, unconstitutional and violative of Art.14 and 16 of the Constitution of India and for a consequential direction to the respondents to fill up the six vacancies and the future vacancies in the cadre of Chief Draughtsman by promoting the applicants herein according to their seniority in the cadre of Head Draughtsman taking into consideration the date of initial appointment and also to ensure the percentage of 15 and 7½% quotas <sup>ear-marked</sup> to SC and STs respectively are not exceeded at any given point of time by reverting the SC and ST candidates who are promoted in excess of the reservation provided to them. All the applicants herein belong to OC community.

3. The relevant portion of interim order dated 10.5.89 reads as under:

".....it is directed that during the pendency of this OA the vacancies available from time to time in regard to filling up of posts of Chief Draughtsman in the grade of Rs.2000-3200 (RSRP) in the Electrical Department of SC Railway, Secunderabad shall be filled up in accordance with 40 point roster system subject to the condition that the posts held by the members of the scheduled caste and scheduled tribe does not exceed 15% and 7½% respectively at any given point of time. However, if a person belonging to SC/ST 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....."

Copy to:-

1. Secretary, (Estt.) Rail Bhavan, New Delhi.
2. The Chief Personnel Officer, South Central Railway, Rail Nilayam, Secunderabad.
3. The Chief Electrical Engineer, South Central Railways, Secunderabad Rail Nilayam.
4. The Chief Project Manager, Railway Electrification, South Central Railway, Vijayawada.
5. One copy to Shri G.V. Subba Rao, Advocate, CAT, Hyd.
6. One copy to Shri N.R. Devaraj, Sr. CGSC. CAT. Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare

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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 10.5.89 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. /

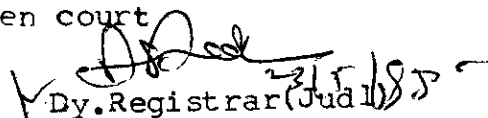
  
(R. RANGARAJAN)  
Member(Admn)

  
(V. NEELADRI RAO)  
Vice-Chairman

Dated: 03rd May, 1995

Dictated in the open court

mvl

  
Dy. Registrar (Judicial)