

(27)

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

O.A.No:428/89

DATE OF JUDGMENT: 03.05.1995

BETWEEN:

1. S.Jayaraman

2. B.Nancharaiah

.. Applicant

and

1. Union of India rep by Secretary(Estt.)
Rail Bhavan, New Delhi.

2. The Chief Personnel Officer, SCRly
Rail Nilayam, Secunderabad.

3. The Medical Superintendent, SCRly, Guntakkal

4. The Medical Superintendent, Hyderabad MG Dvn
Secunderabad.

5. Sri G.Israel Raju, Health Inspector Gr.II
SCRly, Bellary.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI

G.V. SUBBA RAO

COUNSEL FOR THE RESPONDENTS: SHRI

N.R. DEVRAJ

Sr./Addl.CGSC

CORAM:

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

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

CONTD....

28

O.A.428/89

Dt.of order:03.05.1995

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 two applicants in this OA who belong to OC community and are working as Health Inspectors Gr.II in the scale of Rs.1600-2660(RSRP) under R3 and R4. They pray for a declaration that the filling up of the post of Health Inspectors Grade-I in the scale of Rs.2000-3200(RSRP) in the Medical Department of the South Central Railway by candidates belonging to SC and STs in excess of the reservation of 15% and 7½% respectively as provided for under the Constitution as illegal, arbitrary, unconstitutional and violative of Art. 14 and 16 of the Constitution of India and also for a consequential direction to the respondents to fill up the said vacancies and future vacancies in the cadre of Health Inspector Gr.I in the scale of Rs.2000-3200 by promoting the applicants herein according to their seniority in the cadre of Health Inspectors Gr.II in the scale of Rs.1600-2660 taking into consideration their date of initial appointment and also ensuring that the prescribed percentage of 15% and 7½% reservation to the SC and ST communities respectively are maintained by reverting the persons who have been ~~promoted~~ promoted in excess of the quota prescribed for the respective communities

2. An interim order dated 5.6.1989 was issued in this OA relevant ~~part~~ portion of which reads as under:


"

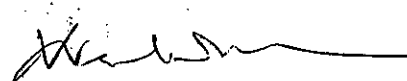
.....we direct that during the pendency of this OA, the vacancies available from time to time in regard to filling up of posts of Health Inspectors Gr.I in the scale of pay of Rs.2000-3200 will be filled up in accordance with 40 point roster system subject to the condition that the posts held by the 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 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 5.6.1989 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. Promotions subsequent to 10.2.1995 shall be made in accordance with the principle enunciated in Sabarwal 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

To

1. The Secretary(Estt.) Union of India, Railbhavan, New Delhi.
2. The Chief Personnel Officer, S.C.Rly, Railnilayam, Secunderabad
3. ^{myl} The Medical Superintendent, S.C.Rly, Guntakal.
4. The Medical Superintendent, Hyderabad MG Division, Secunderabad
5. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devraj, SC for Rlys. CAT.Hyd.
7. One spare copy.

pvm

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 315 1995.

ORDER/JUDGMENT:

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

OA.No. in

428/89

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.

One Spare Copy

