

189

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

O.A.No.447/1989

Dt.of order:01st May,1995

Between

1. K.V. Appa Rao
2. M.R.S,S.V.Jogeswara Rao
3. M.V.Ramaswamy
4. Th.Suryanarayana
5. K. Surya Rao
6. K.Hanumantha Rao
7. M. Robert
8. V.S.N.Murthy

.. Applicants

and

- 1.The Union of India rep by
Secretary, Min. of Rlys
New Delhi.
- 2.The Chairman, Rly Board, New Delhi
- 3.The General Manager, SERly, Garden Reach
Calcutta
- 4.Divisional Rly Manager, SERly,
Visakapatnam
- 5.Divisional Personnel Officer,
SERly, Visakapatnam

.. Respondents

Counsel for the Applicants

:: Mr KV SubramanyamNarsu

Counsel for the respondents

:: Mr NR Devraj

CORAM:

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

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

ORDER

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

Heard Sri Subramanya Narasu learned counsel for
the applicant and Mr NR Devraj, Standing Counsel for the
Respondents.



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2. All the applicants in the OA who belong to OC community, are working as Head Clerks under R-4 in the commercial branch of Visakhapatnam in Souther Eastern Railway. Their next promotion is to the category of Office Superintendants Gr. II. Their prayer is for a direction to the respondents that the promotions given to Scheduled Caste and Scheduled Tribe candidates over and above 22.5% of the posts at any given point of time in the category of office superintendants Gr.II under 40 point roster system are arbitrary, illegal, unjust, unconstitutional and violative of Art. 14 and 16 of the Constitution of India and for a further direction to the respondents to promote the employees other than the scheduled castes and scheduled tribe candidates as per the seniority list in the grade of Head Clerks without reference to the 40 point roster system to the post of office superintendent Gr.II in Divisional Commercial Superintendent's Office (Commercial Branch) Waltair, Visakapatnam.

3. An interim order dated 9.6.89 was issued in this OA, operative portion of which reads as follows:
".....We direct that during the pendency of this OA, the vacancies available from time to time in regard to filling up of 4 vacancies of Office Superintendent Gr.II pursuant to the impugned order No.DCS/WAT& DCS(Stores) WAT dated 20.3.1989 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 excluded while computing the required percentage."

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Copy to:-

1. Secretary, Ministry of Railways, Union of India, New Delhi.
2. The Chairman Railway Board, Rail Bhavan, New Delhi.
3. The General Manager, South Eastern Railway, Garden Reach, Calcutta-843.
4. Divisional Railway Manager, S.E.Railway, Visakhapatnam.
5. Divisional Personnel Officer, S.E.Railway, Visakhapatnam.
6. One copy to Sri. K.V.Subrahmanyam Narsu, advocate, CAT, Hyd.
7. One copy to Sri. N.R.Devaraj, SC for Rlys, CAT, Hyd.
8. One copy to Library, CAT, Hyd.
9. One spare copy.

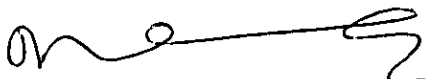
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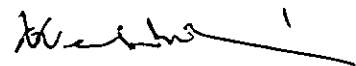
4. It was held by the Apex Court in Sabharwal's case (1995(2)SCALE 685) that the quota for SCs and STs is only in the number of posts and not in vacancies and hence, 40 point roster has to be followed for initial filling up of the posts of operated cadre strength and subsequent vacancies have to be filled 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 10.2.1995 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 9.6.1989 in the OA is treated as final order in this OA in regard to the promotions that were made upto and inclusive of 10.2.1995 to the category of commercial supervisors. Promotions subsequent to 10.2.1995 shall be in accordance with the principle enunciated in Sabharwal case. OA is ordered accordingly. No costs. /



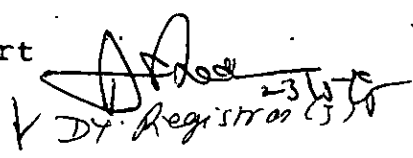
(R. RANGARAJAN)
Member (Admn)



(V. NEELADRI RAO)
Vice-Chairman

Dated: 01st May, 1995

Dictated in the open court



23/5/95
DY. Registrar

OA-44

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 ---11/7--- 1995.

ORDER/JUDGMENT: ✓

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

OA.No. in- 447/89

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.

No spare copy

