

(98)

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

O.A.NO. 486/89

DATE OF JUDGMENT: 28.4.95

BETWEEN:

1. Sk.Mehboob
2. N.Satyanarayana Rao
3. S.Narayana Swamy
4. K.Upender Rao
5. BV Ramanuja Charyulu

.. Applicants

AND

1. Union of India rep. by the
Secretary (Estt.),
Railway Board,
New Delhi.
2. The General Manager,
SC Railway, Secunderabad-371.
3. The Chief Personnel Officer,
SC Railway,
Secunderabad-371.
4. The Divisional Railway Manager (Personnel),
SC Railway,
Secunderabad (BG) Division,
Sanchalan Bhavan,
Secunderabad.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI V.Venkateswara Rao

COUNSEL FOR THE RESPONDENTS: SHRI NR Devaraj
Sr./Asst. CGSC

CORAM:

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

CONTD.....

Judgement

(As per Hon. Mr. R. Rangarajan, Member (Admn.))

Heard Sri V. Venkateswara Rao, learned counsel for the applicants and Sri N.R. Devaraj, learned counsel for the respondents.

2. There are five applicants in this OA who were working as Head Clerks at the time of filing of this OA, under the control of R-4. They pray for a declaration that the filling up of the vacancies of posts of Chief Clerks of the Personnel Branch of Secunderabad (BG) Division, SC Railway, Secunderabad, in the scale of Rs.1600-2660 (RSRP) by the candidates belonging to SC & ST communities in excess of the reservation of 15% & 7½% in that cadre, as illegal, arbitrary, and unconstitutional and for a further direction to quash 40 point roster being followed for filling up of each cadre and also alert notice issued by R-4 vide office letter CP.121/P.1/Admn/CCs, dated 31-5-89 and the letter of even number dated 1-6-89 with all consequential benefits etc.

3. An interim order order dated 21-6-1989 was issued in this OA. The relevant 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 the filling up of five vacancies of Chief Clerks pursuance to the impugned order No.CP/121/P-1/Admn./CCS, dated 31-5-1989, 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 themembers 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 SC or ST is promoted on his own merits and not in a reserved vacancy, then forthe purpose of this interim order, such appointment will be excluded while computing the required percentage."

97

4. This OA was filed on the basis of the judgement of Allahabad Court in the case of J.C. Malik vs. Union of India (1978(1) SLR 844). The principle underlying the said judgement was upheld by the Constitution Bench of the Apex Court in R.K. Sabharwal vs. State of Punjab (1995(1) SCALE 658) But it is stated in that judgement which was disposed on 10-2-1995 that it is prospective.

5. For the reasons stated in the order in TA.872/86 this OA is disposed as under :

The promotions that were made upto and inclusive of 10-2-1995 in accordance with the above interim order have to be held as valid. The promotions subsequent to that date have to be made in accordance with the principles laid down by the Apex Court in Sabharwal's case.

6. The OA is ordered accordingly. No costs.

[Signature]
 (Sd/-) _____
 Date.....
 Court Officer
 Central Administrative Tribunal
 Hyderabad Bench
 Hyderabad.

To sk

1. The Secretary (Estt), Railway Board, New Delhi.
2. The General Manager, South Central Railway, Secunderabad.
3. The Chief Personnel Officer, South Central Railway, Secunderabad.
4. The Divisional Railway Manager (Personnel), South Central Railway, Secunderabad BG Division, Sanchalan Bhavan, Secunderabad.
5. One copy to Mr.V.Venkateswar Rao, Advocate, CAT, Hyderabad.
6. One copy to Mr.N.R.Devraj, Sd/- CGSC, CAT, Hyderabad.
7. One copy to Library, CAT, Hyderabad.
8. One spare copy.

YLKR

TYPED BY
CHECKED BY

COMPALED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

V. Neeladri Rao: V-C.

THE HON'BLE SHRI *A.V. HARIDASAN*: MEMBER

AND

R. Ranganajam.

THE HON'BLE SHRI *A.B. GORTHI*: MEMBER

DATED 28.4.95

ORDER/JUDGMENT

M.A.NO/R.P.NO./C.P.NO.

in

O.A.NO. 486/89

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered.

No order as to costs.

YLKR

No Spare Copy

