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

O.A.NO. 534/89.

DATE OF JUDGMENT: 08-05-95.

BETWEEN:

P.V. Suryanarayana Rao

.. Applicant.

AND

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

2. The Chief Personnel Officer, SC Rly,
Rail Nilayam, Secunderabad-500 371.

3. The Chief Medical Officer, SC Rly,
Rail Nilayam, Secunderabad-371.

4. The Medical Superintendent, SC Rly,
Guntakal Division, Guntakal.

5. Sri G. Jangaiah .. Respondents.

COUNSEL FOR THE APPLICANT: SHRI G.V. Subba Rao

COUNSEL FOR THE RESPONDENTS: SHRI N.V. Ramana,
Sr. ~~Advocate~~ CGSC

CORAM:

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

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CONTD....

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O.A. 534/89.

Dt. of Decision : 08-05-95.

ORDER

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

Heard Shri G.V. Subba Rao, learned counsel for the applicant and Shri N.V. Ramana, learned counsel for the respondents.

2. This application has been filed by the applicant herein who was working as a Chief Clerk under the control of R-4 at the time of filing this OA. He belongs to OC community. His next avenue of promotion is to the post of Office Superintendent in the grade of Rs.2000-3200/- (RSRP). His prayer in this OA is for a declaration that filling up of the post of Office Superintendent in Grade, Rs.2000-3200/- (RSRP) by the candidates belonging to SC and ST communities, in excess of the reservation of 22½% in the cadre as provided under the Constitution, as illegal, arbitrary, unconstitutional, violative of articles of 14 and 16 of the constitution of India, and consequently direct the respondents to fill up the said vacancy and future vacancies in the cadre of Office Superintendents by promoting the applicant herein according to his seniority in the cadre of Chief Clerks and also taking into account his initial date of appointment.

2. An interim order dated 31-07-1989 has been issued in this OA relevant portion of which reads as follows:-

"we direct that during the pendency of this O.A., the vacancies available from time to time in regard to filling up of posts of office Superintendents in the scale of pay of Rs. 2000-3200/- shall be filled up in accordance with 40 point roster system subject to the condition that the posts held by the members of Scheduled Castes and Scheduled Tribes do not exceed 15 per cent and 7½ per cent respectively at any given point of time. However, if a person belonging to the Scheduled Caste or Scheduled Tribe is promoted on his 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".

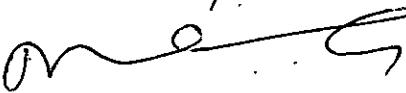


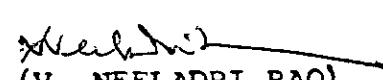
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4. It was held by the Apex Court in Sabharwal's case (1995(1) SCALE 685) that the quota for SCs and STs is only in the number of posts and not in vacancies and hence, 40 point roster has to be followed for initial filling up of the posts of operated 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 31.7.89 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 Sabarwal case. OA is ordered accordingly
No costs./


(R. RANGARAJAN)
Member (Admn)


(V. NEELADRI RAO)
Vice-Chairman

Dated: 8th May, 1995

Dictated in the open court


Deputy Registrar (J) CC

To

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1. The Secretary (Estb) Railway Board, Railbhavan, New Delhi. (U.O.1)
2. The Chief Personnel Officer, S.C.Rly, Railnilayam, Secunderabad.
3. The Chief Medical Officer, S.C.Rly, Railnilayam, Secunderabad.
4. The Medical Superintendent, S.C.Rly, Guntakal Division, Guntakal.
5. One copy to Mr. G.V. Subba Rao, Advocate, CAT.Hyd.
6. One copy to Mr. N.V. Ramana, SC for Rlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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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 18/5 1995.

ORDER/JUDGMENT:

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

O.A. No.

in

TA. No.

534/89
(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.

200 copies
No stamp

