

(92)

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

O.A.NO. 542/89.

DATE OF JUDGMENT: 08-05-95.

BETWEEN:

1. K.Abdul Rasool
2. P.V.V.Prasad Rao
3. D.Venkateraman

.. Applicants.

AND

1. Secretary (Estt.),
Railway Board, Rail Bhavan,
New Delhi.
2. The Chief Personnel Officer,
SC Rly, Rail Nilayam,
Secunderabad-500 371.
3. The Sr.Divisional Personnel Officer,
SC Rly, Guntakal.
4. Smt. M.Ramadevi

.. Respondents.

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

COUNSEL FOR THE RESPONDENTS: SHRI N.V.Ramana,
Sr./Addl.CGSC

CORAM:

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

CONTD 2..

O.A. 542/89.

Dt. of Decision : 08-05-95.

ORDER

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

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

2. There are three applicants in this OA who are working as Senior Clerks under the administrative controls of R-3 and belong to OC community. Their next avenue of promotion is to the post of Head Clerks in the grade of Rs. 1400-2300/-. Their prayer in this OA is for a declaration that filling up of the posts of Head Clerks in grade Rs.1400-2300/- in the personnel Branch of the Sr.Divl.Personnel Officer's Office, SC Rly, Guntakal, by the candidates belonging to Scheduled Castes and Scheduled Tribes in excess of the reservation of 15% and 7½% respectively as provided under the Constitution, as illegal, arbitrary, unconstitutional and violative of articles 14 and 16 of the Constitution of India and consequently direct the respondents to fill up the said vacancies and future vacancies in the grade of Head Clerks in scale of Rs.1400-2300/- by considering the applicants herein according to their seniority in the cadre of Senior Clerks in grade Rs.1200-2040, taking into consideration their date of initial appointment and also to ensure that the prescribed percentages of 15% and 7½% reservation to the SCs and STs respectively are maintained by reverting the persons who have been promoted in excess of the quotas prescribed for the respective communities and direct the respondents not to implement the 40 point roster which is illegal.

3. An interim order dt. 21-07-1989 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 6 vacancies of Head Clerks in the scale

To

1. The Secretary (Estt) Railway Board,
Rail Bhavan, New Delhi.
2. The Chief Personnel Officer,
South Central Railway, Railnilayam,
Secunderabad.
3. The Senior Divisional Personnel Officer,
South Central Railway, Guntakal.
4. One copy to Mr. G.V. Subba Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr. N.V. Ramana, Addl. GSC, CAT, Hyderabad.
6. One copy to Library, CAT, Hyderabad.
7. One spare copy.

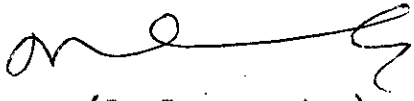
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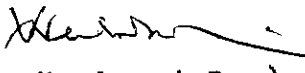
of pay of Rs.1400-2300/- will be filled up in accordance with 40 point roster system subject to the condition that the posts held by the members of the Scheduled Castes and Scheduled Tribes do not exceed 15% and 7½% respectively at any given point of time. However, if a person belonging to the Scheduled 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. The above OA has been filed on the basis of the Allahabad High Court judgement in J.C.Mallik's case (1978(1) SLR 844). As per this judgement, the reservations are to be only against posts and not against vacancies.

5. The above judgement of the Allahabad High Court has been confirmed by the Apex Court in Sabharwal's case (1995(1) SCALE 685). Further directions were also given for filling up of posts against reserved quota, for vacancies arising on or after 11-02-1995. It was held by the Supreme Court in Sabharwal's case that promotions made on or earlier to 10-2-95 need not be disturbed to avoid unsettling of settled matters. In view of the above Supreme Court judgement, promotions made on or earlier to 10-2-95 cannot be re-opened. However, promotions given on or after 11-2-95 should follow the dictum laid down by the Supreme Court in Sabharwal's case.


6. CA is ordered accordingly. No order as to costs./


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated : The 08th May 1995.
(Dictated in Open Court)

mvl


Dy. Registrar (J)

Contd.---

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

V. Neeladri Rao V.C.
THE HON'BLE SHRI ~~A.V. HARIDASAN~~ MEMBER

AND

R. Rangarajan
THE HON'BLE SHRI ~~A.B. GORTHY~~ MEMBER

DATED 8-5-95

ORDER/JUDGMENT

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

in

O.A.NO. 542/89.

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered.

No order as to costs.

No. gave copy

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