

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

O.A.NO. 587/89

DATE OF JUDGMENT: 28.4.95

BETWEEN:

1. S.Krishna
2. D.Sarojini
3. G.Shayam Rao
4. N.N.Lingam
5. S.Sreedhar

Applicants

AND

1. The Secretary (Estt.),
Railway Board,
New Delhi.
2. The General Manager,
SC Railway,
Secunderabad.
3. The Chief Personnel Officer,
SC Railway,
Secunderabad.
4. The Chief Commercial Superintendent,
SC Railway,
Secunderabad.

RESPONDENTS

COUNSEL FOR THE APPLICANT: SHRI PVSSS Rama Rao

COUNSEL FOR THE RESPONDENTS: SHRI Gopala Rao.D
S/o./Addl.CGSC

CORAM:

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

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OA.587/89

Judgement

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

Heard Sri PVSS Rama Rao, learned counsel for the applicants and Sri D. Gopral Rao, learned counsel for the respondents.

2. There are five applicants in this OA who are working as senior clerks at the time of filing this OA, under the control of R-4. They pray for a declaration that the promotions given to SC candidates over and above 15% of the posts at any given point of time in the category of Head Clerk of Commercial Branch under 40 Point roster system is arbitrary, unjust, illegal and unconstitutional and violative of Articles 14 & 16 of the Constitution. And for a further direction to R-3 to promote the employees other than SC candidates in the Commercial Branch (Rates Group) who are seniors without reference to 40 point roster system to the post of Head Clerk.

3. An interim order dated 7-8-89 was issued in this OA. The relevant portion of which reads as under :

"We direct that during the pendency of this OA, the vacancy of Head Clerk which fell vacant on 30-6-89 will be filled up in accordance with 40 point roster system subject to the condition that the posts held by the members of the SCs and STs 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 for the purpose of this interim order, such appointment will be excluded while computing the required percentage."

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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.

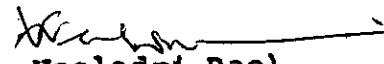
5. For the reasons stated in the order in TA.872/86 this OA is disposed as under :

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.



(R. Rangarajan)
Member (Admn.)



(V. Neeladri Rao)
Vice Chairman

Dated : April 26, 95
Dictated in Open Court



DEPUTY REGISTRAR (J)

sk

To

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 Chief Commercial Superintendent, South Central Railway, Sec'bad.
5. One copy to Mr.P.V.S.S.Rama Rao, Advocate, CAT, Hyderabad.
6. One copy to Mr.D.Gopal Rao, Addl.CGSC, CAT, Hyderabad.
7. One copy to Library, CAT, Hyderabad.
8. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

V. Nedadri Rao, V.C.
THE HON'BLE SHRI A.V.HARIDASAN, MEMBER (J)

AND
R. Rangarajan,
THE HON'BLE SHRI A.B.GORTI, MEMBER (J)

DATED 28.4.95

ORDER/JUDGMENT

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

in
D.A.NO. 587/89.

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered.

No order as to costs.

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