

34

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

O.A. NO. 629/89.

DATE OF JUDGMENT: 08-05-95.

BETWEEN:

1. Tapas Kumar Roy
2. Satya Prakash Singh
3. Smt. A. D. Usha Rani

.. Applicants.

AND

1. Union of India, rep. by the Member Staff (Estt.) Railway Board, Rail Bhavan, New Delhi.
2. The Chief Personnel Officer and Mukhiya Raja Basha Adhikari, SC Rly, Rail Nilayam, Secunderabad.
3. General Manager, SC Rly, Rail Nilayam, Secunderabad.
4. Abdul Mateen
5. Kumari Veena Tarkey

.. Respondents.

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

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

CORAM:

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

CONTD. 2...

D.A. 629/89.

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 D.Gopala Rao, learned counsel for the respondents.

2. There are three applicants in this OA who are working as Hindi Assistants in the Hindi Organisation of SC Railway, under the control of R-2. Their next promotion is to the grade of Hindi Assistant Gr-I in the scale of Rs.1600-2660/- They ~~do~~ belong to OC community. Their prayer in this OA is for a declaration that filling up of the post of Hindi Asst., Grade-I in scale Rs.1600-2660/- by the candidates belonging to the SC and ST following the 40 point roster 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 cadre of Hindi Asst., Grade-I by promoting the applicants according to their seniority in the cadre of Hindi Asst. Gr.II taking into consideration their date of initial appointment and also to ensure that the prescribed percentage is maintained by reverting the persons who have been promoted in excess of the quota prescribed for the respective communities.

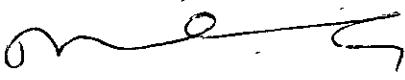
3. An interim order dt. 21-08-89 has been issued in this OA relevant portion of which reads as follows:-

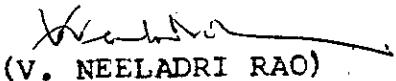
"We direct that during the pendency of this O.A., the vacancies available from time to time in regard to filling up of posts of Hindi Asstt. Gr.I in the scale of pay of Rs.1600-2660/- will be filled up in accordance with 40 point roster system subject to the condition that the posts held by the members of the 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 in 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. 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 21.8.89 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) CD  
Dictated in the open court

mvl

To

1. The Member Staff(Estt.) Union of India, Railway Board, Railbhavan, New Delhi.
2. The Chief Personnel Officer and Mukhiya Raja Basha Adhikari, S.C.Rly, Railnilayama, Secunderabad.
3. The General Manager, S.C.Rly, Railnilayam, Secunderabad.
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
5. One copy to Mr.D.Gopal Rao, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

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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 8-5-95 1995.

ORDER/JUDGMENT:

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

in

OA. No. 62989

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.

23/5/95

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