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

O.A.NO. 653/89

DATE OF JUDGMENT: 02.5.1995

BETWEEN:

1. M.Rama Rao
2. Y.V.L.Narasimha Sastry
3. P. Ranga Rao
4. N. Mohan Rao
5. B. Anjaneya Sastry
6. G.Sankara Rao
7. P.Parvathi Bai
8. V.Naga Raju
9. M.P.Punnaiah
- 10.V.Subba Rao
- 11.P.Sriramachandra Murthy

.. Applicants

and

1. Union of India, rep by Member(Staff)Estt.
Railway Board, Rail Bhavan, New Delhi
2. Sr.Divisional Personnel Officer, SCRly,Vijayawada
3. The Chief. Personnel Officer, SCRly, Sec'bad
4. Sr.Divisional Commercial Supdt., SCRly, Sec'bad
5. Mrs K.Kowmudi Kumari
6. Mrs D. Usha Rani

7. Mrs K.Lavanya

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI G.V.SUBBA RAO

COUNSEL FOR THE RESPONDENTS: SHRI N.R.DEVRAJ
Sr./Addl.CGSC

CORAM:

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

CONTD.....

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ORDER

As per Hon'ble Shri Justice V.Neeladri Rao, Vice-Chairman

Heard Shri GV Subba Rao, learned counsel for the applicant and Mr NR Devraj, Standing Counsel for the respondents.

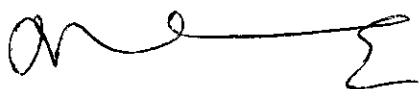
2. All the 11 applicants in this OA who belong to OC category, are working as Head Clerks under R4. They pray for a direction to the respondents to re-fix the seniority of the applicants in accordance with J.C.Mallick's Judgement by declaring the seniority list published by the Sr.DPO/BZA vide his letter No.B/P612/I/II dated 23.12.1988 as illegal and for a consequential direction to the respondents to issue fresh alert notice for the selection of Chief Clerks in the scale of Rs.1600-2660 in terms of the revised seniority to be fixed by the respondents according to law.
3. By an interim order dated 25.8.1989, applicants 4,6 & 8 were permitted to appear for the written test scheduled to be held on 2.9.1989 for promotion to the post of Chief Clerk in the scale of Rs.1600-2660(RSRP) in the commercial department of DRM, Vijayawada; but the results of selection however, should not be announced until further orders. No other interim order was passed.
4. The principle underlying in the Judgement in Mallick's case (1978 (1) SLR 844) was upheld by the Constitution Bench of the Apex Court in RK Sabarwal Vs State of Punjab (1995(1) SCALE 685). But it is stated in the latter case that the principle enunciated therein is prospective.

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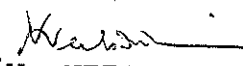
...3...

5. Hence, even though the seniority list which was challenged in this OA is contrary to the principle laid down in the Mallick's case, the same cannot be set aside as it is held in Sabharwal's case that the principle enunciated therein is prospective and thus it is applicable only in regard to the promotions made on and after 11.2.1995. Accordingly, this OA is liable to be dismissed and as such, the results regarding the performance of the applicants 4, 6 & 8 in the written examination ^{for} which ^{they appeared} ~~was attended by them~~ in pursuance of the interim order dated 25.8.1989 in this OA need not be directed to be published.

6. In the result, the OA is dismissed. No costs.



(R. RANGARAJAN)
Member (Admn)


(V. NEELADRI RAO)
Vice-Chairman

Dated: 02nd May, 1995

Dictated in the open court


Deputy Registrar (J) CC

To
mvl

1. The Member (Staff) Estt. Railway Board,
Railbhavan, New Delhi.
2. The Sr. Divisional Personnel Officer, S.C.Rly. Vijayawada.
3. The Chief Personnel Officer, S.C.Rly., Secunderabad.
4. The Sr. Divisional Commercial Superintendent,
S.C.Rly, Secunderabad.
5. One copy to Mr. G.V. Subba Rao, Advocate, CAT. Hyd.
6. One copy to Mr. N.R. Devraj, SC for Rlys, CAT. Hyd.
7. One copy to Library, CAT. Hyd.
8. One spare copy.

pvm

THPED BY

CHECKED BY

COMPARED BY

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 --- 21/5 --- 1995.

ORDER/JUDGMENT:

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

OA.No. in 653/89

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.

No Spare Copy

Central Administrative Tribunal

DESPATCH

22 JUN 1995

HYDERABAD BENCH.