

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

O.A.NO. 764/89

DATE OF JUDGMENT: 26.4.95

BETWEEN:

1. A.K.Madhavan Nair
2. M.Kamulu
3. Y.Seetharama Murthy
4. B.Rammohan Rao
5. K.Prabhakara Rao
6. P.S.R.Anjaneyulu
7. P.K.Abraham

.. Applicants.

A N D

1. The Chairman, Railway Board,
Rail Bhavan, New Delhi.
2. The General Manager,
South Eastern Railway,
Garden Reach,
Calcutta - 700 343.
3. The Divisional Railway Manager,
South Eastern Railway,
Visakhapatnam,
4. The Divisional Personnel Officer,
South Eastern Railway, Visakhapatnam.

.. Respondents.

— — —
COUNSEL FOR THE APPLICANT: SHRI. K.V.Subramanya Narusu

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....

Judgement

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

Heard Sri K.V. Subrahmanya Narusu, learned counsel for the applicants and Sri N.R. Devaraj, learned counsel for the respondents.

2. There are seven applicants in this OA, belonging to OC category. They are working as Goods Supervisors under the control of R-3. They are due for promotion as Chief Goods Supervisor Gr.II in the scale of pay of Rs.1600-2660. They filed this application for a direction to the respondents herein that the promotions given to SC & ST candidates over and above 22.5 % of the posts at any given point of time in the category of Chief Goods Supervisor Gr.II under 40 Point roster system are arbitrary, illegal, unjust, unconstitutional and violative of Articles 14 & 16 of the Constitution, and for a direction to the respondents to promote the employees other than SC & STs as per the seniority list in the Grade of Goods Supervisor without reference to 40 Point roster system to the post of Chief Goods Supervisor Gr.II in the Divisional Commercial Superintendent's office (Commercial Branch), Waltair.

3. Interim order dated 6-10-1989 has been given in this case. The relevant portion of this interim order reads as under :

"We direct that during the pendency of this OA the vacancies available from time to time in regard to filling up of posts of chief goods supervisors Gr.II will be filled up in accordance with 40 Point roster system subject to the condition that the posts held by the members of the SC & ST do not exceed 15% and 7½% respectively at any given point of time. However, if a person belongs to SC or ST is promoted on his own merits and not in a reserved vacancy than for the purpose of these interim orders, such appointment will be excluded while computing the required percentage."

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Copy to:-

1. The Chairman, Railway Board,
Rail Bhavan, New Delhi.
2. The General Manager, South Eastern Railways,
Garden Reach, Calcutta-700 343.
3. The Divisional Railway Manager, South
Eastern Railways, Visakhapatnam.
4. The Divisional Personnel Officer,
South Eastern Railway, Visakhapatnam.
5. One copy to Shri K.V. Subramanya Narusu, Advocate,
CAT, Hyd.
6. One copy to Shri N.R. Devaraj, Sr. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare

kku.

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3.

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 :

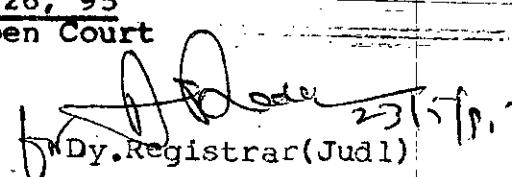
The promotions that were made upto and inclusive of 10-2-1995 in accordance with the above interim order have to be held as valid. The promotions subsequent to that date have to be made in accordance with the principles laid down by the Apex Court in Sabharwal's case.

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


Dy. Registrar (Jud1)

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sk

OA 764/89

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 26/4 1995.

ORDER/JUDGMENT:

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

OA. No. in 64/89

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 Space Copy

Central Administrative Tribunal
DESPATCH

4 JUL 1995 NSF

HYDERABAD BENCH.