

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
 AT HYDERABAD

O.A.No. 817/89

Date of Order: 26.4.95

1. N.V.Ramana Murthy
2. A.H.Subramanian
3. N.J.Syed Ismail
4. M.Srinivasulu
5. R.Rammohan
6. M.Gonvindacharyulu

.. Applicants.

A N D

1. Secretary (Establishment),
 Rly. Board, New Delhi.
2. General Manager, S.C.Rly.,
 Rail Nilayam, Secunderabad.
3. Chief Personnel Officer,
 S.C.Railway, Rail Nilayam,
 Secunderabad.
4. Chief Commercial Superintendent,
 S.C.Railway, Rail Nilayam,
 Secunderabad.

.. Respondents.

— — —

Counsel for the Applicants .. Mr.A.K.Narasimha Rao

Counsel for the Respondents .. Mr. N.R.Deva Raj

— — —

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO : VICE CHAIRMAN

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

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OA.817/89

Judgement

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

Heard Sri A.K. Narasimha Rao, learned counsel for the applicant and Sri N.R. Devaraj, learned counsel for the respondents.

2. There are six applicant in this OA who belong to OC community. They are working as Head Clerks under R-4, in the Rates Section in the SC Railways in Secunderabad. They pray for a declaration that promotions given to SC over and above 15% of the posts at any given point of time in the category of Chief Clerks of Commercial Branch under 40 Point roster system is arbitrary, illegal, unjust, unconstitutional and violative of Articles 14 and 16 of the Constitution and for a further direction to R-3 to promote the employees other than SC candidates in the ~~Commercial~~ branch who are seniors without referenceto 40 point rostersystem to the post of Chief Clerks.

3. ~~Ex-A~~ interim order dated 30-10-89 was issued and the relevant portion reads as under :

"During the pendency of this OA the vacancy available from time to time in regard to filling up of posts of Chief Clerks in the scale of pay of Rs.1600-2660 in the Rates Group Head Quarters, Commercial Branch 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 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."



..2.

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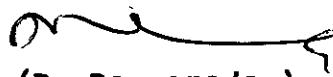
3

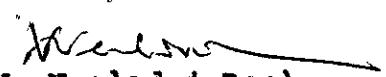
4. This OA was filed on the basis of the judgement of Allahabad Court in the case of J.C. Malik vs. Union of India (1978(1) SLR 844). The principle underlying the said judgement was upheld by the Constitution Bench of the Apex Court in R.K. Sabharwal vs. State of Punjab (1995(1) SCALE 658) But it is 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 :

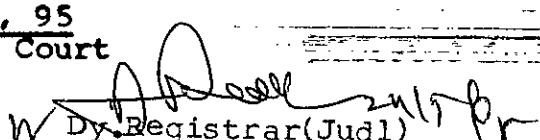
The promotions that were made upto and inclusive of 10-2-1995 in accordance with the above interim order have to be held as valid. The promotions subsequent to that date have to be made in accordance with the principles laid down by the Apex Court in Sabharwal's case.

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


W/ Dy. Registrar (Jud1)

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Copy to:-

1. Secretary(Estt.)Railway Board,
New Delhi.
2. General Manager, South Central Railway,
Rail Nilayam, Secunderabad.
3. Chief Personnel Officer, South Central Railways,
Rail Nilayam, Secunderabad.
4. ~~xxxxxx~~ Chief Commercial Superintendent,
South Central Railways, Rail Nilayam,
Secunderabad.
5. One copy to Mr.A.K.Narasimha Rao, Advocate, CAT.Hyd.
6. One copy to Mr.N.R.Devaraj, Sr.CGSC, CAT.Hyd.
7. One copy to Library, CAT.Hyd. & One spare.

07-819/89

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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 26-4 1995.

~~ORDER/JUDGMENT~~

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

~~OA. No.~~

819/89

~~R. No.~~

W.P.

~~Admitted and Interim directions
issued.~~

~~Allowed.~~

~~Disposed of with directions.~~

~~Dismissed.~~

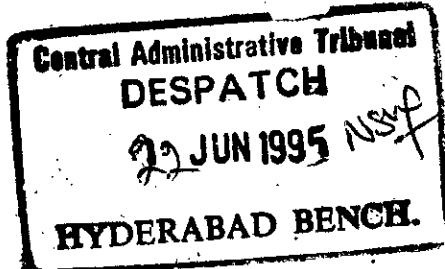
~~Dismissed as withdrawn~~

~~Dismissed for default~~

~~Ordered/Rejected.~~

~~No order as to costs.~~

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