

(U6)

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

O.A.NO. 938/89

DATE OF JUDGMENT: 8.5.1995

BETWEEN:

1. B. Dakshinamurthy

2. A. V. Srinivasan

.. Applicants

and

1. Member (Staff) Rly Board, Rail Bhavan, New Delhi.

2. Chief Pers. Officer, SCRly, Sec'bad

3. K. Shiva Kumar, Chief Clerk, HQrs, Pers. Branch CPO Office, Sec'bad

4. D. Nageswara Rao, CC, HQrs, Pers. Branch, CPO Office, SCRly, Sec'bad

5. Smt V-Jhansi Lakshmi, CC -do-

6. T. Murahari Rao, CC, DRM's Office, Pers. Branch, Hubli

7. Devadanam, Chief Clerk, -do-

8. R. P. Naik, -do- -do-

9. Padmanabha -do- CWM's Office, Workshop, Hubli

10. N. M. Muneswar, Chief Clerk, DRM office, Pers. Branch, Hubli

11. V. Guravaiah, Chief Clerk, Pers. Branch, DRM Office, Vijayawada

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....

ORDER

As per Hon'ble Shri R.Rangarajan, Member (Admn)

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

2. This OA has been filed by two applicants who are working as Chief Clerk under the control of R2. Though they were working as Chief Clerk on adhoc basis, they were not selected in the selection held for the post of Chief Clerks as some of the SC/ST candidates were promoted following the rules in vogue at that time. Hence, this OA is filed by the applicants herein praying for a declaration that the seniority list published by the Chief Personnel Officer vide his letter No.P.EST/612/Vol.II dated 17.6.1988 as illegal and for a consequential direction to the respondents to fix the seniority of the applicants correctly taking into consideration their date of initial appointment duly observing the principle laid down by the Allahabad High Court in JC Mallik's case, which was followed by the Central Administrative Tribunal of the Allahabad Bench in Veerpal Singh Chauhan Vs Union of India and also direct the respondent to assign correct seniority to the applicants over and above the respondents 3 to 11 in the OA who have been wrongly given seniority on account of their jumping the queue and that the posts of Office Supdts in the scale of Rs.2000-3200 should be filled up by OC candidates after re-fixation of their seniority as per rules in the combined seniority list which is under preparation reflecting the Chief Clerks who have been promoted on and after November, 1986 as otherwise irreparable damage will be caused to the OC candidates in view of the fact that against 78 posts of office superintendants 47 posts are being operated by the SC/ST candidates thereby violating articles 14 and 16 of the Constitution and also direct the respondents to reverse the SC & ST candidates who have been promoted in excess of the quotas prescribed for them or,

To

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

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in the alternative, create supernumerary posts to the extent of the short fall of posts to the OC candidates on account of the excess operation of SC&ST candidates.

3. The interim order dated 28.6.90 issued in this OA reads as follows:

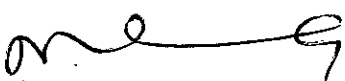
".... These cases are covered by the decision of the Allahabad Bench and also by a Railway Board Circular in regard to determination of seniority inter-se between the SC/ST candidates and other 'OC' candidates for giving them further promotions. They may be posted for orders on 31.7.90....."

It is not clear whether any further interim order has been issued in this connection ~~or~~ or not. No final order has been issued so far.

4. As per the interim order, the ratio laid down in J.C.Mallick's case (1978(1)SLR 844) has to be followed. The ratio laid down in JC Mallick's case has been approved by the Supreme Court in Sabharwal's case (1995(1)SCALE 685). Further, the Apex Court has given certain directions for filling up reserved vacancies arising on or after 11.2.1995. Promotions given on or before 10.2.1995 need not be re-opened as held by the Supreme Court in Sabharwal's case.

5. In view of the dictum laid down by the Apex Court in Sabharwal's case that promotions made on or before 10.2.95 need not be disturbed and as the interim order in this case is not very clear, no further directions need be given in this OA. However, vacancies arising on or after 11.2.1995 in this case has to be filled up in accordance with the law laid down by the Supreme Court in Sabharwal's case.

6. With the above directions, OA is disposed off. No costs./


(R. RANGARAJAN)
Member (Admn)


(V. NEELADRI RAO)
Vice-Chairman

Dated: 08th May, 1995

Dictated in the open court

mvl

Deputy Registrar (3)cc

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 8.5.95 1995.

ORDER/JUDGMENT:

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

in
OA. No. 938/89

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

