

(172)

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

O.A.NO. 82/89

DATE OF JUDGMENT: 03.05.1995

BETWEEN:

1. A.V.Bhaktavatsala
2. I.Chalapathi Rao
3. K.Yogeshwar Rao
4. R. Nandakumar
5. D.Ramanarayan

.. Applicants

and

1. Union of India, rep by
Secretary, Min. of Rlys, New Delhi.
2. Chairman, Railway Board, New Delhi.
3. General Manager, SERly, Calcutta
4. Divisional Rly Manager, SERly, Visakhapatnam
5. Divisional Personnel Officer, SERly, Visakhapatnam

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI G.VENKATESHWAR 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 Sri Venkateshwara Rao counsel for the applicant and Mr NR Devraj, Standing Counsel for the respondents.

2. There are five applicants in this OA who are working as Travelling Ticket Examiners in South Eastern Railway, Visakapatnam under the control of R-4. They belong to OC community and they pray for a declaration that the promotions being given to the scheduled caste and scheduled tribe candidates over and above 22½% of the post at any given point of time in the category of Travelling Ticket Inspector along with other grade under 40 point roster system are arbitrary illegal, unjust and unconstitutional and violative of Art.14 and 16 of the Constitution of India and for a further direction to the respondents to promote the employees other than scheduled castes and scheduled tribe candidates who are in seniority list without reference to 40 point roster system to the posts of Travelling Ticker Inspectors and other grades.

3. An interim order dated 6.2.89 has been issued in this OA relevant portion of which reads as under:

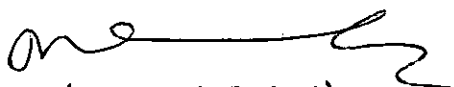
".....we direct that during the pendency of this OA, the vacancies available from time to time in regard to filling up of the posts of Travelling Ticket Inspectors will be filled in accordance with 40 point roster system subject to the condition that the posts held by the members of the SC and ST do not exceed 15% and 7½% respectively at any given point of time and that if a person belonging to the SC and ST is promoted on his merits and not in a reserved vacancy, then for the purpose of interim order such appointments will be excluded while computing the required percentage....."

192

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 6.2.1989 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: 03rd May, 1995

Dictated in the open court


Dy. Registrar(Judl)

OA 82/89

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 31st 1995.

ORDER/JUDGMENT:

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

QA.No.

in

82/89

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

