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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

O.A.No.102/89

Dt.of order:01st May,1995

Between

1. G.D.Rathna Parke
2. G.V.V.V.Satyanarayana
3. S.Raghavendra Rao
4. V.G.Deshpande
5. C.Ramanadham
6. K. Ramaiah
7. L.Babu
8. P.Padmanabha Rao
9. B.Veeraiah
- 10.P.R.T.Raju

.. Applicants

and

1. Secretary (Establishment)
Railway Board, Rail Bhavan, New Delhi.
2. Chief Personnel Officer
SCRly, Sec'bad
3. Chief Engineer(Open Line)
SCRly,Rail Nilayam, Sec'bad

.. Respondents

Counsel for the Applicant :: Mr G.V.Subba Rao

Counsel for the respondents :: Mr NR Devraj, Sr.CGSC

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE-CHAIRMAN

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

ORDER

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

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

2. All the 10 applicants in this OA are working as Head Clerks/Adhoc Chief Clerks under R-3 in South Central Railway, Secunderabad. Their prayer in this OA is for

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a declaration that filling up of the posts of Chief Clerks in the grade of Rs.1600-2660(RSRP) by the candidates belonging to Scheduled Castes and Scheduled Tribes in excess of the reservation of 22 1/2% in the cadre as provided under the Constitution as illegal, arbitrary, unconstitutional and violative of Art.14 and 16 of the Constitution and for a consequential direction to the respondents to consider the cases of the applicants for selection to the posts of Chief Clerks in the grade of Rs.1600-2660(RSRP) taking into consideration of their seniority from the date of their initial appointment.

3. An interim order dated 8.2.1989 was 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 posts of Chief Clerks in the scale of pay of Rs.1600-2660 will be filled up in accordance with 40 point roster system subject to the condition that the posts held by the members of the scheduled castes and scheduled tribes do not exceed 15% and 7½% respectively at any given point of time. However, if a person belonging to the scheduled caste or scheduled tribe 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....."


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

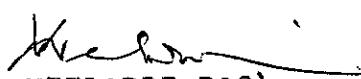
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which was disposed of on 10.2.1995 is prospective so that the settled matters cannot be unsettled.

5. As it is observed by the Apex Court that the Judgement in Sabharwal case which was pronounced on 10.2.95 is prospective, it follows that the promotion 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 8.2.1989 in the OA is treated as final order in this OA in regard to the promotions that were made upto and inclusive of 10.2.1995. Promotions subsequent to 10.2.1995 shall be in accordance with the principle enunciated in Sabharwal case. OA is ordered accordingly. No costs./



(R. RANGARAJAN)
Member (Admn)


(V. NEELADRI RAO)
Vice-Chairman

Dated: 01st May, 1995

Dictated in the open court

mvl


Deputy Registrar (Judl.)

Copy to:-

1. Secretary (Establishment) Railway Board, Rail Bhavan, New Delhi.
2. Chief Personnel Officer, S.C. Railways, Secunderabad.
3. Chief Engineer (Open Line), S.C. Railway, Railnilayam, Secunderabad.
4. One copy to Sri. G.V. Subba Rao, advocate, CAT, Hyd.
5. One copy to Sri. N.R. Devaraj, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

OA. 102/89.

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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 11/5 1995.

ORDER/JUDGMENT:

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

OA.No.

in

102/89

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

