

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

O.A.NO. 134/90

DATE OF JUDGMENT: 5.5.1995

BETWEEN:

1.K.Narayana Murthy  
2.D.Chandra Mohan Rao  
3.Ch.Subba Rao  
4.A.S.Ramachandran  
5.C.V.Madhusudhana Rao  
6.A.Palakondaiah  
7.K.V.Ramana Rao  
8.Mrs V.L.Chakku  
9.I.N.Moni  
10.B.Suryanarayana  
11.P.Satyaranayana  
12.Prabha Alexandar

.. Applicants

and

1.Secretary (Estt.) Railway Board, Rail Bhavan, New Delhi.  
2. Chief Personnel Officer, SCRly, Rail Nilayam, Sec'bad  
3.Controller of Stores, South Central Railway, Sec'bad  
4.Sri TKS Kodandapani, Head Clerk, O/o Con. Stores, SCRly, Sec'bad  
5.Sri J.S.Hari Ashok, Head Clerk, O/o Cont. of Stores, SCRly,  
Rail Nilayam, Sec'bad

.. Respondents

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. There are 12 applicants in this OA who belong to OC community and who are working as Head Clerks under the control of R3. Their next avenue of promotion is that of Chief Clerk in the scale of Rs.1600-2600/-.. They pray for a declaration that filling up of 12 vacancies of Chief Clerks in the Grade of Rs.1600-2660 by candidates belonging to the SC and ST community following the 40 point roster in excess of the reservation of 15% and 7½% respective as provided for in the Constitution is illegal, arbitrary, unconstitutional and violative of Art.14 and 16 of the Constitution of India and ~~for a~~   
consequential direction to the respondents to fill up the 12 vacancies and future vacancies in the cadre of Chief Clerks by promoting the applicants herein according to their suitability in the cadre of Head Clerks taking into consideration their date of initial appointment and also ensure percentage of 15 and 7½ per cent quota to SC and STs respectively are not exceeded at any given point of time by declaring that the letters of Chief Personnel Officer, South Central Railway, Secunderabad No.608-Stores/CC/89 dated 27.10.89 and No.S.P.135/HQrs/Vol.15 dated 16.11.1989 and the letters of the Controller of Stores, SCRly, Sec'bad No.S.P.135/HQrs/Vol.15 dated 9.2.90 and 15.2.90 as illegal, arbitrary and unconstitutional.

3. An interim order dated 20.2.90 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 vacancies of Chief Clerks pursuant to filling up of 12 vacancies of Chief Clerks pursuant to the impugned order No.608/Stores/CC/89 dated 27.10.89 in the scale 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 caste/scheduled tribes do not exceed 15% and 7½% respectively at any given point of time.

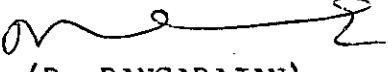
However, if a person belonging to the scheduled caste or scheduled Tribe is promoted on his own merits and not in a reserved vacancy, then for the purpose of this interim order such appointment will be excluded from computing the required percentage."

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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 20.2.90 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 according No costs. /

  
(R. RANGARAJAN)  
Member(Admn)

  
(V. NEELADRI RAO)  
Vice-Chairman

Dated: 05th May, 1995

Dictated in the open court

  
Deputy Registrar (J) CC

To

1. The Secretary(Estt.) Railway Board, Railbhavan, New Delhi.  
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2. The Chief Personnel Officer, S.C.Rly, Railnilayam, Sec'bad.
3. The Controller of Stores, S.C.Rly, Secunderabad.
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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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 5/5 1995.

ORDER/JUDGMENT:

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

in  
OA. No.

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.

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