

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

O.A.NO. 216/90

DATE OF JUDGMENT: 5.5.1995

BETWEEN:

1. K.Dilip Kumar
2. G.Surender
3. D.Ravindra Goud
4. K.J.Sarma
5. V.Ranga Reddy
6. P.V.Sai Ram
7. Alfred Vijayakumar
8. G.Sekhar Babu
9. D.Purushotham
10. N. Dayaram

.. Applicants

and

1. Secretary (Estt.) Railway Board, Rail Bhavan, New Delhi.
2. Chief Personnel Officer, SCRly, Rail Nilayam, Sec'bad
3. The Chief Electrical Engineer, SCRly, Sec'bad
4. Chief Project Manager, Railway Electrification
SCRly, Vijayawada

.. 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 10 applicants in the OA. They all belong to OC community and they are working as Senior Draftsman/ Head Adhoc/Drafts man under R2/R3. Their next venue of promotion is to the category of Head Draftsman in the scale of Rs.1600-2660/-. They have filed this OA praying for a declaration that filling up of 7 vacancies of Head Drafts man in the Grade of Rs.1600-2660/- by candidates belonging to SC and ST communities following the 40 point roster in excess of the reservation of 15% and 7½% respectively as provided for in the Constitution is illegal, arbitrary, unconstitutional and violative of Art.14 and 16 of the Constitution and for a consequential direction to the respondents to fill up the seven vacancies and future vacancies in the cadre of Head Draftsman by promoting the applicants herein according to their suitability in the category of Senior Draftsman taking into consideration their date of initial appointment and also ensure percentage of 15 and 7½ per cent quota to SCs and STs respectively are not exceeded at any given point of time by declaring that the letters of the Chief Personnel Officer, SCRly, Sec'bad No.P/EL/282/HDM/Vol.II dated Feb.'90 and 9.3.90 as illegal arbitrary and unconstitutional.

3. An interim order dated 14.3.90 has been issued in this OA relevant portion of which reads as under:

" ...I direct that during the pendency of this OA, the vacancies available from time to time in regard to filling up of 7 vacancies of Head Draftsmen pursuant to the impugned order No.P(EL)282/HDM/Vol II dated 9.3.90 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 castes 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."

Copy to:-

1. Secretary(Estt) Railway Board,Rail Bhavan,New Delhi.
2. Chief Personnel Officer, South Central Railways, Rail Nilayam, Secunderabad.
3. The Chief Electrical Enginer, South Central Railways, Secunderabad.
4. Chief Project Manager, Railway Electrification, South Central Railways, Vijayawada.
5. ~~One~~ One copy to Shri G.V.Subba Rao,Advocate,CAT,Hyd.
6. One copy to Shri N.R.Devaraj,Sr.CGSC,CAT,Hyd.
7. One copy to Library,CAT,Hyd.
8. One spare copy.

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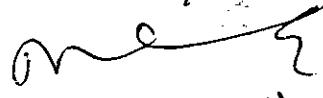
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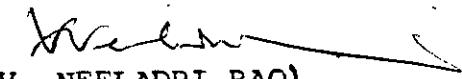
4. It was held by the Apex Court in Sabharwal's case (1995(1) SCALE 685) that the quota for SCs and STs is only in the number of posts and not in vacancies and hence, 40 point roster has to be followed for initial filling up of the posts of operated cadre strength and subsequent vacancies have to be 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 14.3.90 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 accordingly.

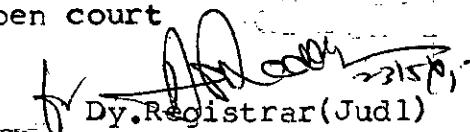
No costs.


(R. RANGARAJAN)
Member(Admn)


(V. NEELADRI RAO)
Vice-Chairman

Dated: 05th May, 1995

Dictated in the open court


Dy. Registrar (Jud1)

mvl

OA : 216/90

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 1st 1995.

ORDER/JUDGMENT:

M.A./R.A./C.A. No. —

OA. No. in 216/90

T.A. 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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