

(29)

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

O.A.NO. 311/91.

DATE OF JUDGMENT: 08-05-95.

BETWEEN:

1. Smt. P.P.Pervathi Bai
2. B.Anjaneya Sastry
3. V.Naga Raju
4. N.Mohan Rao
5. G.Shankar Rao
6. M.P.Punnaiah
7. Y.V.M.V.Sekhar Rao

.. Applicants.

AND

1. Union of India, rep. by the Member Staff (Establishment) Railway Board, Rail Bhavan, New Delhi.
2. Divisional Railway Manager (Personnel), SC Rly, Vijayawada.
3. Smt. L.Usha Rani
4. Smt. K.Lavanya
5. Sri T.Venkata Ratnam

.. Respondents.

COUNSEL FOR THE APPLICANT: SHRI G.V.Subba Rao

COUNSEL FOR THE RESPONDENTS: SHRI D.Gopala Rao,
Sr./Addl.CGSC

CORAM:

HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN
HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

CONTD²...

D.A. 311/91.

Dt. of Decision: 08-05-95.

ORDER

1. As per Hon'ble Shri A.Rangarajan, Member (Admn.) Heard Shri G.V.Subba Rao, learned counsel for the applicants and Shri D.Gopala Rao, learned counsel for the respondents.

2. This DA has been filed by seven applicants who belong to DC community and are working as Head Clerks under the administrative controls of R-2. Their next promotion is to the post of Chief Clerk in the Grade of 1600-2660/-. Their prayer in this DA is for a direction to the respondents to produce the records relating to the selection/promotion of Head Clerks of the Commercial Branch of the Senior DCS office, Vijayawada to the grade of Chief Clerk in grade Rs.1600-2660/- and also direct the second respondent not to promote any SC/ST candidate in excess of the reservation quotas provided to them under the Constitution at any point of time observing the 40 point roster by declaring that the prescribed percentage applies only to the sanctioned strength of the category and not to the vacancies that arise from time to time and holding that any excess promotion is illegal, arbitrary, unconstitutional and violative of Articles 14 and 16 of the Constitution.

3. An interim order dt. 27-03-91 has been issued in this DA relevant portion of which reads as follows:-

"It is directed that during the pendency of this D.A., the vacancies available from time to time in regard to filling of posts of chief clerk will be filled up in accordance with 40 point roster system subject to the condition that the posts held by the members of the S.Cs & S.Ts do not exceed 15% and 7½% respectively at any given point of time and that if a person belonging to the S.C. or S.T. 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".

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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 27.3.91 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: 8th May, 1995

Dictated in the open court

Deputy Registrar (J) CC

To

1. The Member Staff (Estt.) Union of India, Railway Board, mvl Railbhavan, New Delhi.
2. The Divisional Railway Manager (Personnel) S.C.Rly, Vijayawada.
3. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
4. One copy to Mr. D.Gopal Rao, SC for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy,

pvm