

(29)

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

O.A. NO. 345/91.

DATE OF JUDGMENT: 09-05-95.

BETWEEN:

1. T.V.Narasimha Rao
2. J.D.Ambatapuri
3. V.Venkata Swamy
4. P.V.Ramana Rao
5. V.A.Rama Rao
6. M.S.Vijaya Kumar
7. K.Satyamurayana
8. Md.Zahid Ghori
9. V.V.Malleswara Rao
10. V.S.Sasikumar Nair

.. Applicants.

AND

1. Union of India rep. by Member Staff,
Railway Board, Rail Bhawan,
New Delhi.
2. Chief Personnel Officer,
SC Rly, Rail Nilayam.
Secunderabad.
3. Controller of Stores,
SC Rly, Rail Nilayam,
Secunderabad.
4. Sri Govinda Pochiah

.. Respondents.

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

COUNSEL FOR THE RESPONDENTS: SHRI N.R.Devaraj,
Sr./Addl.CGSC

CORAM:

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

CONTD 2.

O.A. 345/91.

Dt. of Decision : 09-05-95.

ORDER

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

Heard Shri G.V.Subba Rao, learned counsel for the applicants and Shri N.R.Devaraj, learned counsel for the respondents.

2. This OA has been filed by 10 applicants who are working as Senior Clerks in the scale of Rs.1200-2040/- in the Electrical Department of SC Railway under the administrative control of R-3. They all belong to OC community. Their next avenue of promotion is to the ~~post of Head Clerk~~ in the scale of Rs.1400-2300/-. Their prayer in this OA is for a direction to the respondents to produce the records relating to the promotion of Head Clerks in the office of the Controller of Stores, SC Railway, Secunderabad in grade Rs.1400-2300/- and also direct them not to promote any SC and ST candidates in excess of the reservation quota provided to them under the Constitution at any point of time observing the 40 point roster, by declaring that the prescribed percentage of 15% and 7½% to the SCs and STs respectively applies only to the sanctioned strength of the Category of Head Clerks and not to the vacancies that arise from time to time and holding that any excess promotion is illegal, arbitrary, unconstitutional and violative of Article 14 and 16 of the Constitution of India.

3. An interim order dt. 05-04-91 has been issued in this OA relevant portion of which reads as follows:-

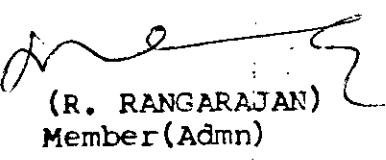
"Respondents are directed that during the pendency of this O.A., the vacancies available from time to time in regard to filling up of the posts of Head Clerks in the scale of pay of Rs.1400-2300(RSRP) will be filled up in accordance with 40 point roster system subject to the condition that the posts 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".

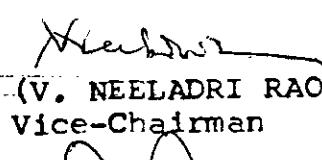
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4. It was held by the Apex Court in Sabharwal's case (1995(1) SCALE 685) that the quota for SCs and STs is only in the number of posts and not in vacancies and hence, 40 point roster has to be followed for initial filling up of the posts of operated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

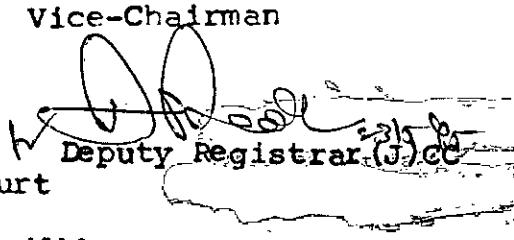
5. As it is observed by the Apex Court that the Judgement in Sabharwal case which was pronounced on 10.2.1995 is prospective it follows that the promotions that were made till 10.2.1995 on the basis of the interim order cannot be held as illegal. Accordingly, the interim order has to be made as final order in this OA.

6. As such, the interim order dated 5.4.91 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: 9th May, 1995


Deputy Registrar (J)

Dictated in the open court

To

1. The Member Staff, Railway Board, Railbhavan, ~~R&R~~ Union of India, New Delhi.
2. The Chief Personnel Officer, S.C.Rly, Railnilayam, Secunderabad.
3. One copy to Controller of Stores, S.C.Rly, Railnilayam, 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

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEEELADRI RAO
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMN)

DATED 9/5 1995.

ORDER/JUDGMENT:

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

OA. No.

345 Q1

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.

23/6/95

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