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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.370 of 1991

DATE OF JUDGMENT:21st September,1993.

BETWEEN:

Mr. T. Bangar Raju

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Applicant

AND

1. Union of India represented by
the Member Staff,
Railway Board,
New Delhi.
2. The Financial Adviser & Chief
Accounts Officer,
South Central Railway,
Secunderabad.
3. The Sr. Divisional Accounts Officer,
S.C. Railway,
Vijayawada.

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Respondents

HEARD:

COUNSEL FOR THE APPLICANT: Mr. G.V. Subba Rao, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. D. Gopal Rao, SC for Railways

CORAM:

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

HON'BLE SHRI P.T. THIRUVENGADAM, MEMBER (ADMN.)

JUDGMENT

(As per Hon'ble Shri Justice V. Neeladri Rao, Vice Chairman)

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The applicant joined service as Junior Pay Clerk and later on he was promoted as Inspector of Cashiers (Pay). When one promotion post of Assistant Chief Cashier in Group 'B' ^{had} fallen vacant and when the applicant was not ~~for consideration for the said promotion,~~ alerted for the written test, this OA was filed praying for a declaration that the process of selection without

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publishing the combined seniority list of the Divisional Cashiers (Pay) and Inspectors of Cashiers (Pay) in scale Rs.2000-3200, is illegal, arbitrary and unconstitutional and violative of Articles 14 and 16 of the Constitution and to consequently direct the respondents to conduct fresh selection after finalisation of the combined seniority.

2. In para 9 of the OA, it was pleaded that the seniority list does not refer to the date of initial appointment, date of promotion to the various grades etc., and hence it was argued that the said seniority list should not have been followed. In para 8 of the OA, the applicant claims ~~xxxx~~ the relief similar to the relief granted in, "1987(4) ATC 685 (Vir Pal Singh Chauhan Vs. Union of India and others)", by the Allahabad Bench of the Tribunal.

3. It was held by the Allahabad Bench of the Tribunal in 1987(4) ATC 685 that if any reserved candidate is promoted on the basis of the roster point, and if an OC senior to ~~xxx~~ him was promoted later, then the said OC candidate has to be shown as senior to the reserved candidate who was promoted earlier in the promotion grade. But the order in 1987(4) ATC 685 and some similar orders were challenged before the Supreme Court and the matters are pending before the Supreme Court.

4. By way of interim order, ~~xxxxxx~~ passed on 16.4.1991, the respondents were directed to allow the applicant to appear along with the others for the written

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test and the interview and accordingly the applicant was permitted to appear for the written test and he also appeared for the interview but the results were not published in view of the interim order dated 16.4.1991.

5. It is pleaded for the respondents that as there was only one vacancy for promotion, five were alerted as per the rules and as the applicant was not among the first five, he was not alerted. It is also stated for the respondents that all the ^{first} five in the combined seniority list of Divisional Cashiers(Pay)/Inspectors of Cashiers (Pay) are reserved candidates. ~~But the contention for the applicant is that all those five candidates who were alerted were juniors to him in the cadre of Junior Pay Clerks and hence when he was promoted as Inspector of Cashiers (pay), he should have been shown above those five-reserved candidates in the combined seniority list.~~

6. As the question, as to whether the OCs can claim that their seniority in the lower cadres has to be reflected in the promotion cadre when once they are promoted, is a matter that is pending consideration before the Supreme Court, and as the applicant retired from service in July, 1992, it is just and proper to pass the following order:-

The respondents are free to publish the results in regard to the written ^{test} and the interview that were conducted in 1991 for the post of Assistant Chief Cashier. Even if the applicant was selected for promotion to the post of Assistant Chief Clerk, he should not be given the benefit of the same ~~(the applicant retired from service.~~

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~~in July 1992~~), unless the Supreme Court decides that OCs are entitled to claim seniority in the promotion cadre as referred to above. Thus, if ultimately the Supreme Court upholds the contention for the OCs, notional promotion should be given with effect from the expiry of one month from the date of the interview and the applicant should be given the monetary benefits till the date of retirement and also ^{for} the pensionary benefits. Ofcourse, if the applicant was not selected for promotion, then this OA stands dismissed. In either view, there is no need to consider for the disposal of this OA about the question as to whether the OCs are entitled to claim seniority over the reserved candidates in the promotional cadre, if the latter happened ^{at the time of entry into service} to be their juniors, and it is a matter that is going to be decided by the Supreme Court.

7. The OA is ordered accordingly. No costs.

(P.T. THIRUVENGADAM)
MEMBER (ADMN.)

(V: NEELADRI RAO)
VICE CHAIRMAN

DATED: 21st September, 1993.

vsn

Dy. Registrar (D)

Copy to:-

1. Member Staff, Railway Board, Union of India, New Delhi.
2. The Financial Adviser & Chief Accounts Officer, South Central Railway, Secunderabad.
3. The Sr. Divisional Accounts Officer, S.C.Rly, Vijayawada.
4. One copy to Sri. G.V. Subba Rao, advocate, CAT, Hyd.
5. One copy to Sri. D. Gopal Rao, SC for Rlys, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One copy spare.

Rsm/-

OA-37091

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDGE)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M (A)

Dated: 21/9/ -1993

ORDER/JUDGMENT:

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

in

O.A.No.

370/91.

~~T.A.No.~~

(W.P.)

Admitted and Interim directions
issued

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

pvm

