

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

24

O.A. No. 609/91.

Dt. of Decision : 20-10-94.

Abdul Sukur

.. Applicant.

vs

1. Union of India rep. by  
its Secretary,  
Railway Board, Rail Bhavan,  
New Delhi.
2. Sr. Divl. Mechanical Engineer,  
LOCO, Vijayawada.
3. Sr. Divl. Personnel Officer,  
SC Rly, Vijayawada.
4. Sr, K. Venkaiah

.. Respondents.

Counsel for the Applicant : Mr. G.V. Subba Rao

Counsel for the Respondents : Mr. V. Bhimanna.  
SC for Rlys.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELAORI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

(GK)

O.A.No.609/91

Dt. of decision: 20-10-1994

O R D E R

1. As per Hon'ble Sri V.Neeladri Rao, Vice-Chairman ( )

This O.A. was filed praying for a direction to quash the Mem9B/P536/III/28/Vol.II, dated 10-7-1990 whereby R-4, a Scheduled Caste candidate was promoted as Sr. Clerk, by declaring that the same is illegal, arbitrary, unconstitutional and violative of Articles 14 and 16 of the Constitution, and for consequential direction to R-1 to R-3 to promote the applicant as Sr.Clerk ~~with effect from the date R-4 was promoted with all consequential benefits such as arrears of salary and allowances, seniority etc.~~

2. The Statistical Cell at Vijayawada was formed on 10-7-67, and prior to that it was centrally controlled cadre by the headquarters office at Secunderabad. The applicant was appointed as Junior Clerk in the Statistical Branch headquarters office on 17-8-82. On transfer the applicant joined the Statistical Cell in Guntakal on 16-5-83, and subsequently at his request he was transferred to Statistical Cell, Vijayawada with bottom seniority and he joined there in September, 1984. R-4 joined the said Cell at Vijayawada long after the applicant was transferred to the said cell. Thus admittedly R-4 was junior to the applicant as Junior Clerk in the Statistical Cell at Vijayawada.

3. When vacancy of Senior Clerk occurred in the said Cell due to the promotion of an incumbent as Head Clerk, R-4 was promoted as Senior Clerk on 10-7-90. It is

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stated for the respondents that the said vacancy was filled up by ~~SC~~ candidate as there was a shortfall of ~~SC~~ candidate <sup>or per</sup> in the reservation roster.

4. But the plea of the applicant is that Sri M.V.S. Narayana Rao, an ST candidate was promoted after he was transferred to Statistical Cell at Vijayawada in 1967, and hence the contention for the respondents that there was backlog vacancy of ST in the cadre of Senior Clerk and this cannot be accepted. But it is categorically pleaded in the counter filed on behalf of the respondents (vide para-2 of the counter) that Sri M.V.S. Narayana Rao was promoted as Senior Clerk in the headquarters office at Secunderabad and after promotion he was transferred to Statistical Cell at Vijayawada.

5. It may be noted that by a letter No.E(SCT)72 CM15/5 dated 11-1-73 the Railway Board decided "that a quota of 15% and 7½% for SCs and STs respectively may also be provided in promotion to the categories and posts in Class-I, II, III and IV filled on the basis of seniority-cum-suitability provided the element of direct recruitment to those grades if any does not exceed 50%" (vide para-2 of the Railway Board's letter dated 11-1-1973). The promotion to Senior Clerk is <sup>by way of</sup> ~~in regard to~~ the non-selection post <sup>on the basis of</sup> by seniority-cum-suitability. Hence there is no need to advert in detail to the Railway Board's letter E(SCT)68-CM15/10, dated 27-8-68 which provided for reservation quota for SCs/STs in promotion to selection posts in Class-III, and posts filled up on the basis of competitive examination limited to departmental candidates in Class-II, III and IV. It can thus be stated that the reservation quota

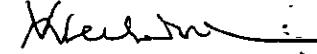
for SCs and STs in promotion to non-selection posts in Class-II, III and IV in Railway Establishment had come into existence only on 11-1-1973. When the reservation quota for SCs and STs respectively, the 40 point roster was prepared. Hence the question of backlog for ST prior to 11-1-73 has not arisen. As such it is not necessary to consider [Qas] to whether in fact Sri M.V.S.Narayana Rao was promoted after he was transferred to Statistical Cell at Vijayawada [as] contended for the applicant. For even if he was promoted as Senior Clerk after his transfer to Statistical Cell at Vijayawada, the question of showing him at ST point in the 40 point roster does not arise, for, by the date of his promotion there was no provision for reservation quota for SCs and STs in promotion posts.// The roster in regard to the Senior Clerks in the Statistical Cell at Vijayawada was produced by the respondents. The R-4 was promoted when the 9th vacancy had arisen in the category of Senior Clerk after 11-1-1973. The 4th vacancy is for ST, and that vacancy was filled up on 23-7-81. By then R-4 was not appointed. It is stated that no ST candidate was available when the 4th vacancy had arisen/it was filled up by OC candidate. No ST candidate was promoted to the post of Senior Clerk before R-4 was promoted. Hence on the basis of the above material the contention for the respondents that R-4 was promoted on 10-7-90 as Senior Clerk in view of the carry forward of the backlog vacancy of is tenable. Hence the promotion of R-4 as Senior Clerk cannot be treated as illegal.

*Am*

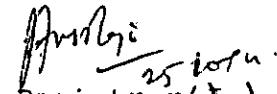
(98)

5. Thus this O.A. does not merit consideration.  
Accordingly it is dismissed. No costs.

  
( R. Rangarajan )  
Member (A)

  
( V. Neeladri Rao )  
Vice Chairman

Dictated in Open Court  
20th October, 1994

  
Deputy Registrar (J) 25/10/94

kmv

To

1. The Secretary, Union of India,  
Railway Board, Railbhawan,  
New Delhi.
2. The Sr. Divisional Mechanical Engineer,  
Loco, Vijayawada.
3. The Senior Divisional Personnel Officer,  
S.C.Rly. Vijayawada.
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
5. One copy to Mr.V.Bhimanna, SC for Rlys, CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm

25/10/94

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR.K.RANGARAJAN : M(AD)

DATED 20-10-1994

ORDER/JUDGMENT

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

O.A.No.

in  
609/91

C.C.A.No.

(W.P.NO

Admitted and Interim directions  
Issued.

Allowed.

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected

No order as to costs.

pvm

