

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

O.A. NO. 610/91.

DATE OF JUDGMENT: 09-05-95.

BETWEEN:

1. M.R. Haliyal
2. C.J. Daniyal
3. G. Prakash
4. E.M.V. Prasad
5. M.V. Manohar Rao
6. U. Brahmanandam
7. Osman Imtiaz
8. M. Krishna Prasad
9. K.T. Dharma Krishna
10. N.M. Mulgund
11. B. Prabhakar Rao

.. Applicants.

AND

1. Union of India rep. by
the Secretary, Railway Board,
Rail Bhavan, New Delhi.
2. Chief Personnel Officer,
SC Rly, Rail Nilayam,
Secunderabad.
3. Chief Electrical Engineer,
SC Rly, Rail Nilayam,
Secunderabad.

.. Respondents.

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

COUNSEL FOR THE RESPONDENTS: SHRI N.R. Devaraj,
Sr. ~~Advok~~ CGSC

CORAM:

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

CONTD. 2..

O.A. 610/91.

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. There are 11 applicants in this OA who are working as Assistant Electrical Foreman in the grade of Rs.1600-2660/- 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 category of Chief Electrical Foreman in the scale of Rs.2000-3200/-. Their prayer in this OA is for a declaration that the alert notice No.P(EL)608/ASS/EF/CTA/2 dt.28-01-91 issued by the Chief Personnel Officer including 9 SC candidates when there is no SC vacancy against 15% SC quota is, illegal, arbitrary and unconstitutional violating Article 14 and 16 of the Constitution and consequently direct the respondents to issue a fresh alert notice inviting 3 ST available candidates and 33 OC candidates in accordance with their seniority of fill up the 12 vacancies of Electrical Chargeman in grade Rs.2000-3200/- observing the 15% and 7½% quota fixed for SC and ST communities respectively and that at any point of time the total number of posts reserved for SCs and STs shall not exceed the 22½%.

3. An interim order dt.21-06-91 has been issued in this OA relevant portion of which reads as follows:-

"The respondents are directed to fill the posts of Electrical Foreman/Electrical Chargeman according to the reservation of 15% and 7½% for SC/ST on the basis of the posts and on the basis of vacancies arising, subject to the liberty of the filling the S.T. vacancies by SCs, or vice-versa in accordance with the instruction contained in chapter-16 of the Brochure on Reservation for SC and ST in Railways, IIIr addition at pages 384 sequences".

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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 21.6.91 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 Saberwal case. OA is ordered accordingly
No costs. /

CERTIFIED TO BE TRUE COPY

Date.....

Court Officer

Central Adm. & Legal Tribunals

Hyderabad Beach

Hyderabad

23/5/85

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To

1. The Secretary, Railway Board, Union of India, Railbhavan, New Delhi.
2. The Chief Personnel Officer, S.C.Rly, Railnilayam, Secunderabad
3. The Chief Electrical Engineer, 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.

pvm

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 ---9--- 1995.

ORDER/JUDGMENT:

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

OA.No.

in
610/91.

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.

No *Spaniel* *COPY*

