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

O.A.NO. 1125/91.

DATE OF JUDGMENT: 09-05-95.

BETWEEN:

1. M.R. Baig  
2. K.Gundu Rao .. Applicants.

AND

1. Union of India rep. by the  
Secretary (Establishment)  
Railway Board, Rail Bhavan,  
New Delhi.  
2. Divisional Railway Manager,  
SC Rly, Hyderabad MG Division,  
Secunderabad.  
3. General Manager, SC Rly,  
Rail Nilayam, Secunderabad.  
4. Sri B.N.Gavit  
5. V.Bhaskar Rao  
6. Sri D.P. More  
7. Sri C.A. Patil  
8. Sri S.A.Wankhade  
9. Sri R.H.Landage  
10. Sri G.Thimmappa  
11. Sri A.G. Ingale  
12. Sri D.V.Subbarayudu

.. Respondents.

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

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

CORAM:

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

CONTD. 2.

O.A.1125/91.

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 two applicants who are working as Station Masters in the scale of pay of Rs.1600-2660/- under the controls of R-2. They all belong to OC community. Their next avenue of promotion is to the category of Station Master/Traffic Inspector in the grade of Rs.2000-3200/-. Their prayer in this OA is for a direction to the respondents to produce the records pertaining to the impugned order and also to conduct the selection to Grade Rs.2000-3200/- after revising the seniority of Station Master/Traffic Inspectors in Grade Rs.1600-2660/- declaring that the present selection to the Grade Rs.2000-3200/- is illegal, arbitrary and unconstitutional and violative of Article 14 and 16 of the Constitution and consequently fix the seniority of the applicants at the appropriate place.

3. An interim order dated 08-02-93 has been issued in this OA relevant portion of which reads as follows:-

"The vacancies available from time to time in the categories to which the applicants belong have to be filled in accordance with 40 point roster system subject to the condition that the posts held by the Members of SC/ST do not exceed 15 per cent and 7½% respectively at any given point of time and if a person belonging to SC/ST is promoted on his own merit and not in a reserved vacancy, then for the purpose of this Interim order, such an appointment will be excluded".

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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.

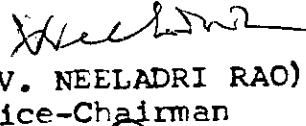
5. As it is observed by the Apex Court that the Judgement in Sabharwal case which was pronounced on 10.2.1995 is prospective it follows that the promotions that were made till 10.2.1995 on the basis of the interim order cannot be held as illegal. Accordingly, the interim order has to be made as final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

6. As such, the interim order dated 8.2.93 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) CC

Dictated in the open court

To

1. The Secretary, (Estt.) Union of India, Railway Board, Railbhavan, New Delhi.
2. The Divisional Railway Manager, S.C.Rly, Hyderabad MG Division, Secunderabad.
3. The General Manager, 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 copy spare.

pvm.