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

O.A. NO. 1179/91.

DATE OF JUDGMENT: 09-05-95.

BETWEEN:

1. Smt. Padmavathi
2. Premchand Varma
3. Ashok Kumar Sen Gupta
4. V.A. Vaidya
5. Smt. Sujatha Arun
6. Smt. N.V.R. Anjani.

.. Applicants.

AND

1. Chief Personnel Officer,  
SC Rly, Rail Nilayam,  
Secunderabad.
2. Union of India rep. by the Member  
Secretary, Establishment,  
Railway Board, Rail Bhavan,  
New Delhi.
3. Sri Arun Kumar Mandal
4. Sri Abdul Mateen

.. Respondents.

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

COUNSEL FOR THE RESPONDENTS: SHRI D.Gopala Rao,  
S.R./Addl.CGSC

CORAM:

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

CONTD. 2..

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OA. 1179/91.

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 D. Gopala Rao, learned counsel for the respondents.

2. This OA has been filed by six applicants who are working as Hindi Assistants under the control of R-1. They all belong to OC community. Their next avenue of promotion is to the category of Hindi Superintendent in the scale of Rs. 2000-3200/-.. Their prayer in this OA is for a direction to the respondents 1 and 2 to fill up the 4 vacancies of Hindi Superintendent by 4 O.Cs candidates only and not by one SC one ST and two OCs as proposed in the alert notice by giving a direction that the quota of SC/ST candidates shall not exceed 15% and 7½% respectively at any given point of time in view of the fact that the viva-voce is yet to be conducted as otherwise irreparable damage will be caused to the applicants herein in that they will be deprived of being selected against the OC vacancies.

3. An interim order dt. 30-12-91 has been issued in this OA relevant portion of which reads as follows:-

"As an interim measure it is hereby directed until further orders, that during the pendency of this O.A., the vacancies available from time to time in the category of Hindi Superintendent will be filled-up in accordance with the 40 point roster system subject to the condition that the posts held by members of the SC and ST 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 orders, such appointment will be excluded while computing the required percentage".

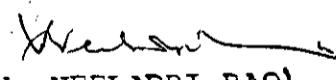
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4. It was held by the Apex Court in Sabharwal's case (1995(1) SCALE 685) that the quota for SCs and STs is only in the number of posts and not in vacancies and hence, 40 point roster has to be followed for initial filling up of the posts of operated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

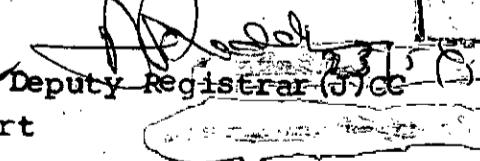
5. As it is observed by the Apex Court that the Judgement in Sabharwal case which was pronounced on 10.2.1995 is prospective it follows that the promotions that were made till 10.2.1995 on the basis of the interim order cannot be held as illegal. Accordingly, the interim order has to be made as final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

6. As such, the interim order dated 30.12.91 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 (S)cc

Dictated in the open court

To

1. The Chief Personnel Officer, S.C.Rly, Railnilayam, Sec 'bad.  
mvl
2. The Member Secretary, Estt. Railway Board, Union of India,  
Railbhavan, New Delhi.
3. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
4. One copy to Mr.D.Gopal Rao, SC for Rlys CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One copy spare.

pvm.