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

O.A.NO. 368/92

DATE OF JUDGMENT: 3.5.1995

BETWEEN:

1.U.Srinivasa Rao
2.M.Rajendra Prasad

.. Applicants

and

1. Union of India rep by General Manager
SCRly, Railnilayam, Sec'bad
2. Divisional Rly Manager, SCRly
Hyderabad MG Division, Secunderabad.

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI V.KRISHNA RAO

COUNSEL FOR THE RESPONDENTS: SHRI N.R.DEVRAJ
Sr./Addl.CGSC

CORAM:

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

CONTD....

ORDER

As per Hon'ble Shri R.Rangarajan, Member(Admn)

Heard Shri V.Krishna Rao, learned counsel for the applicant and Shri NR Devraj, Standing Counsel for the respondent.

2. There are two applicants in this OA belonging to OC community and they are working as Booking Supervisors in the commercial department under R2. Their prayer is for a direction to the respondents herein not to make any further promotions of candidates belonging to SCs and STs in the category of Chief Commercial Supervisors/Inspectors and also revert all those posts which are excess operated for SC/ST candidates and empanel the applicants who have qualified for the promotion of the above posts.

3. The interim order dated 28.4.92 issued in this connection in the OA, reads as under:

"The respondents are at liberty to fill up the posts in the grade of Chief Commercial Supervisors/Inspectors in accordance with the 40 point roster subject to the condition that the posts held by the scheduled caste/scheduled tribe candidates 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 reserved vacancy, then for the purpose of this interim order, such appointment will be ~~excluded~~ excluded while computing the required percentage."

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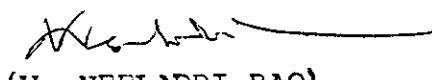
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4. It was held by the Apex Court in Sabharwal's case (1995(1) SCALE 685) that the quota for SCs and STs is only in the number of posts and not in vacancies and hence, 40 point roster has to be followed for initial filling up of the posts of operated 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 28.4.92 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 according to costs.


(R. RANGARAJAN)
Member (Admn)


(V. NEELADRI RAO)
Vice-Chairman

Dated: 03rd May, 1995


Deputy Registrar (J) CC

Dictated in the open court

To

1. The General Manager, Union of India, S.C.Rly, Railnilayam, Secunderabad.
2. The Divisional Railway Manager, S.C.Rly, Hyderabad MG Divn, Secunderabad.
3. One copy to Mr.V.Krishna Rao, Advocate, CAT.Hyd.
4. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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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 3-5-95 1995.

ORDER/JUDGMENT:

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

OA. No. in 368 P2

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.

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