

60

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.69/92

dated : 23-6-95

Between

- | | |
|------------------------|---------------------------|
| 1. S.B.R. Nixon | 14. Md. Farooqui Ali |
| 2. M.S. Padmanabhan | 15. B.H. Hakeem |
| 3. B. Wesley | 16. S.J. Reddy |
| 4. S.S. Naidu | 17. N. Satyanarayana |
| 5. Kaza Moinuddin | 18. N. Sudhakara Rao |
| 6. K. Mallikarjuna Rao | 19. S. Padmanabhan |
| 7. A. Venkatesam | 20. G.V. Reddy |
| 8. J.N. Patil | 21. S. Sanyasiah |
| 9. J. Sunder Rao | 22. Abdul Hye |
| 10. M.V. Rao | 23. Syed Mahamood |
| 11. M. Prabhakaran | 24. A. Rajeswara Rao, and |
| 12. Ramesh N Pande | 25. P.V.A.N. Murthy |
| 13. G. Koteswara Rao | |

: Applicants

And

1. The Divisional Rly Manager
Hyderabad MG Division
SC Rly, Secunderabad

2. The General Manager
SC Rly., Rail Nilayam
Secunderabad

: Respondents

COUNSEL for the applicants

: V. KRISHNA Rao, Advocate

Counsel for the respondents

: N.R. Devaraj, SC for Rlys.

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

2

61

OA.69/93

Judgement

(As per Hon. Mr. Justice V. Neeladri Rao, VC)

.. Heard Sri V. Krishna Rao, learned counsel for the
.. the applicant and Sri N.R. Devaraj, learned counsel for
.. the respondents.

2. This OA was filed praying for a direction to the
respondents not to promote SC/ST in the vacancy that
or
would arise in future newly created post either on
ad hoc or officiating basis and to quash the seniority
list dated 26-2-1992 and recast the same on the guide-
lines given by the Railway Board in their letter dated
20-4-1963 and also on the principles enunciated in the
Allahabad High Court Judgement and also Allahabad CAT
in case No.647 of 86 and TA.666/86, and the interim
order dated 21-12-1984 passed by the Apex Court.

3. It was held by the Allahabad High Court ~~that~~
(1978(1) SLR 844)
Mallick's case ^{applied} that the percentage of reservation should (^{number of}
be ~~employed~~ only in the posts but not in the vacancies. ^{number of}

The said principle was affirmed by the Appx Court in
R.K.Sabharwal vs. State of Punjab (1995(1)SCALE 685).

~~case~~. It was also held in Sabharwal's case that the
promotions given to SCs/STs prior to 10-2-1995 the date
of the judgement on the basis of applying reservation in
the vacancies should not be disturbed. Hence, the same
direction has to be given in this OA.

4. The judgement of the Allahabad CAT in the OA.647/86
and TA.666/86 ~~is to~~ the effect that the seniority in the
promotional cadre has to be revised after the senior OC

69

candidates are promoted after the promotion of the junior SC/ST candidates with reference to their reserved points as per 40 point roster, so as to reflect the interse seniority of the reserved candidates and the OC candidates in the initial cadre. But the said judgement has to be held as *per incuriam* for the Apex Court held in 1989 SC 261 (Khemchand vs. Haryana State Electricity Board and others) that an employee promoted to a post reserved for SC & ST is entitled to his seniority ~~is~~ ^{and} determined from the date of his appointment to the post, ~~but~~ ^{and} the interse seniority in the initial cadre or lower cadre need not reflect in the promotional cadre. ~~In spite of all these~~ ^{that} it was held that the date of entry in promotional cadre is basis for fixing interse seniority of the reserved candidates i.e SC/ST and OC candidate in the promotional posts. Hence, the relief claimed for the applicant on the basis of the judgement of the Chauhan's case (OA.647/88), ~~it had~~ ^{has} to be rejected.

5. Letter dated 20-4-1963 vide No.E(SCT)62 CM 15/7 of the Railway Board has no bearing in regard to the fixation of the seniority in the promotional category in a case where reserved candidate i.e. SC/ST candidates ~~were~~ ^{was} promoted against the reserved point in the 40 point roster. Infact 40 point roster had come into existence in 1969-70.

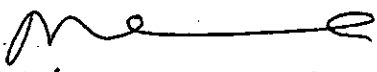
6. In the above view the impugned seniority list dated 26-2-1992 cannot be quashed. In the result the OA is ordered as under :


The reservation for SCs and STs in regard to promotion on or after 11-2-1995 has to be made by applying the per centage of reservation in ~~regard to the posts~~ ^{the number of}

...3.


3/ 63

but not in regard to the vacancies. The OA in regard to
^{other reliefs}
the ~~roster of the records~~ is dismissed. No costs.


(R. Rangarajan)
Member (Admn)


(V. Neeladri Rao)
Vice Chairman

Date : June, 23, 95
Dictated in Open Court


Deputy Registrar (J) CC

To

1. The Divisional Railway Manager,
Hyderabad MG Division
S.C.Rly, Secunderabad.
- sk
2. The General Manager, S.C.Rly,
Railnilayam, Secunderabad.
3. One ~~2~~ 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 --- 23/6 1995.

ORDER/JUDGMENT:

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

OA.No. in 69/93

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 spare copy

