

(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.B. 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. Keishu 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.)

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OA.69/93

Judgement

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

1. 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  
would arise in future / newly created post either on  
adhoc 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)  
Mallik's case that the percentage of reservation should  
be applied only in the posts but not in the vacancies.

The said principle was affirmed by the Appx Court in  
R.K. Sabharwal vs. State of Punjab (1995(1)SCALE 685).  
It was also held in Sabharwal's case that the  
promotions given to SC/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  
✓

..2.

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 incurium 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~~ determined from the date of his appointment to the post, <sup>and</sup> ~~but~~ the interse seniority in the initial cadre or lower cadre need not reflect in the promotional cadre. ~~In spite of all these~~, <sup>there</sup> 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 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 <sup>were</sup> promoted against the reserved point in the 40 point roster. Infact 40 point roster had come into effistence 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 percentage of reservation in regard to the posts <sup>the number of</sup>

63

but not in regard to the vacancies. The OA in regard to  
 the roster of the records is dismissed. No costs.

M  
 (R. Rangarajan)  
 Member (Admn)

K. N. Rao  
 (V. Nandalri Rao)  
 Vice Chairman

Date : June, 23, 95  
 Dictated in Open Court

Prashant  
 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 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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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 23-7-1995.

ORDER/JUDGMENT:

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

in  
O.A. No. 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. 5296/95

