

(35)

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

O.A.NO. 732/93

DATE OF JUDGMENT: 3.5.1995

BETWEEN:

- 1.V.A.Krishnamurthy
- 2.Y.V.Subba Rao
- 3.K.Narasimham

.. Applicants

and

- 1.Chairman, Railway Board, New Delhi
- 2.General Manager, SCRly, Rail Nilayam, Sec'bad
- 3.Divisional Railway Manager, SCRly, Vijayawada
- 4.Mrs Y.E.Satyavedam, OS Gr.II, O/o SR DPO, Vijayawada
- 5.P.Koteswara Rao, OS Gr.II O/o Sr.DPO SCRly, Vijayawada
- 6.K.Kondaiah, OS Gr.II, O/o Sr.DPO, SCRly, Vijayawada
- 7.K.Nageswara Rao, OS Gr.II, O/o Sr.DPO, SCRly, Vijayawada

.. Respondents

COUNSEL FOR THE APPLICANT: SHRI V. RAMA RAO

COUNSEL FOR THE RESPONDENTS: SHRI V. BHIMANNA
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.Rama Rao, counsel for the applicants and Shri V.Bhimanna Standing Counsel for the respondents.

2. There are three applicants in this OA who are working as Office Superintendent Gr.II under the control of R3. They all belong to OC community and they pray for a declaration that the promotions given to SC/ST candidates over and above 22½% of posts at any given point of time in the category of Office Superintendent Gr.I under 40 point roster system are arbitrary, illegal, unjust and unconstitutional and violative of Art.14 and 16 of the Constitution of India, after declaring the office order PG/14/1993 dated 29.3.1993 issued by the 3rd respondent as illegal and unconstitutional.

3. An interim order dated 27.12.1993 has been issued in this OA, relevant portion of which reads as follows:

"We accordingly direct that the vacancies available from time to time in the office superintendent branch will be filled up in accordance with 40 point roster system subject to the condition that the post held by the members of the scheduled caste and scheduled tribe do not exceed 15% and 7½% respectively at any given point of time and if a person belonging to the scheduled caste ~~and~~ or scheduled tribe is promoted on his own merits and not in a reserved vacancy, then for the purpose of this interim order such appointment will be excluded while computing the required percentage....."

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Copy to:-

1. Chairman, Railway Board, New Delhi.
2. Rail Nilay Manager, South Central Railways,
3. Divisional Railway Manager, South Central Railways, Vijayawada.
4. ~~Mrs. Y. E. Satyavedam, OS. Gr. II. O/o Sr. DPO, Vijayawada.~~
5. ~~P. Koteswara Rao, OS. Gr. II. O/o Sr. DPO South Central Railways, Vijayawada.~~
6. ~~K. Kondaiah, OS. Gr. II. O/o Sr. DPO, South Central Railways, Vijayawada.~~
7. ~~K. Nageswara Rao, OS. Gr. II. O/o Sr. DPO, South Central Railways, Vijayawada.~~
8. One copy to Shri V. Rama Rao, Advocate, CAT, Hyd.
9. One copy to Shri V. Bhimanna, Addl. CGSC, CAT, Hyd.
10. One copy to Library, CAT, Hyd.
11. One spare copy.

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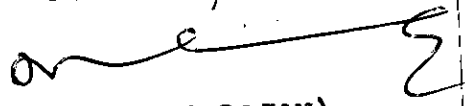
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4. It was held by the Apex Court in Sabharwal's case (1995/1) that the number of posts and not in vacancies and hence, 40 point roster has to be followed for initial filling up of the posts of operated cadre strength and subsequent vacancies have to 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 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 27.12.93 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 Sabharwal case. OA is ordered accordingly.
No costs./


(R. RANGARAJAN)
Member (Admn)


(V. NEELADRI RAO)
Member (Vice-Chairman)

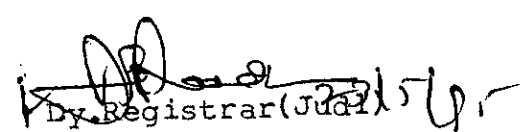
Dated: 03rd May, 1995

Dictated in the open court

Dated: 03rd May, 1995

Dictated in the open court

mvl


Dy. Registrar (Judicial)

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~~20A-135/92~~

THPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELAKANTH

VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMN))

DATED 31/5 1995.

~~ORDER/JUDGMENT:~~

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

OA.No. in 732/93

~~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

