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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

M.A. No. 102/94
~~in~~ ~~in~~ ~~in~~

R.P. No. 31/94.

AND

R.P.No.31/94. in DA. 994/93.

Dt. of Decision : 7.6.94.

1. Workshop Personnel Officer,
Wagon Workshop, SC Rly,
Guntupalli.
2. Dy. Chief Mechanical Engineer,
Wagon Workshop, SC Rly,
Guntupalli.
3. Chief Personnel Officer,
SC Rly, Rail Nilayam,
Secunderabad.

Vs

N. Narasimha Rao

.. Applicants/
Respondents.

.. Respondent/
Applicant.

Counsel for the Applicants/
Respondents.

: Mr. N.R.Devaraj, SH.CGSC.

Counsel for the Respondent/
Applicant.

: Mr. V. Rama Rao

CORAM:

THE HON'BLE SHRI JUSTICE V.NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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M.A.NO.102/94

in

R.P.No.31/94.

AND

R.P.NO.31/94. IN 6A 994/93.

ORDERS

Dt: 7.6.94.

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri N.R.Devaraj, learned standing counsel for the petitioners in RP/MA and Shri V.Rama Rao, learned counsel for the respondents in RP/MA.

2. MA 102/94 is filed praying for condoning the delay of 25 days in filing the RP.
3. The respondents 1 to 3 in OA 994/93 filed the RP praying for review of the judgment dated 27.9.1993 in OA 994/93 by alleging that the letter No.89-E(SCT)I/49/5(pt.), dated 16.6.1992 and the Railway Board letter No.87-E(SCT)I/72/I, dated 6.9.1988 were not brought to the notice of this Bench at the time of the hearing of the OA 994/93 and if they were brought to the notice of this Bench, the OA would have been dismissed.
4. The vacancy at point No.14 as per the roster is reserved for SCs while the vacancy at point No.15 is O. By the time of the consideration for the vacancy at Point No.14, it was noticed that the SC candidates in the promoted cadre were upto 15% and hence by following the Full Bench Judgment of this Bench in OA 759/87 (V.Laxminarayanan Vs. Union of India and others) dated 27.2.1992, the same was treated as unreserved and accordingly it was filled up. When the vacancy at Point No.15 had

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... then, the concerned authority contemplated to fill it up by treating it as reserved vacancy as by then there was no SC candidate in the promoted cadre. After hearing the arguments for both the sides, we held that the question referring to the Full Bench judgment arises only at the time of filling ^{which is} a vacancy reserved as per the roster, and there is no need to refer to that Full Bench judgment if the vacancy as per the roster is not reserved and accordingly we held that the authorities have to fill up 15th vacancy as unreserved, for it is unreserved as per the roster. Even now the learned counsel for the petitioners in the review petition has stated that if a reserved vacancy is treated as unreserved on the basis of the Full Bench judgment, the following OC vacancy should be treated as reserved vacancy.

5. ~~But the~~ ^{the} learned standing counsel for the review petitioners had ^{now} referred to Para 5 of the letter dated 16.6.1992 to urge that on that basis, para 2 in the letter dated 6.9.1988 has to be followed. Para 5 in letter dated 16.6.1992 and the relevant para relied upon in the letter dated 6.9.1988 are as under:-

"5. Maintenance of Roster Register:

The Roster Register may continue to be maintained as per instruction contained in Board's Lr.No.87-E(SCT)I/72/I, dated 6.9.1988."

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Relevant para⁽²⁾ of letter dated 6.9.88:-

"The method of maintaining the roster registers in the light of these court orders, the categories/posts covered by such orders was discussed in the CPOs conference. It has been decided that even in such cases the roster register should be continued to be maintained as per extant orders. The percentage of SC/ST employees working in the particular grade must be worked-out at each stage to ensure that it does not fall below the prescribed percentage. In case no post is reserved & or the posts reserved are less than the posts which should have been reserved as per roster points, the posts remaining unfilled due to no reservation or less reservation should be dereserved indicating therein that the roster point could not be filled in as a result of the Court's order mentioning therein the relevant order of the Court/CAT. In such cases, the orders for dereservation should be obtained from Chief Personnel Officer and the posts carried forward."

6. It is manifest from the para 5 in the letter dated 6.1992 that the reference to the letter dated 9.1988 is only in regard to the maintenance

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of the roster register and it does not refer to the implementation of the 40 point or as to how a OC or reserved vacancy has to be filled. ^{Para 2 of letter dated 6.9.88} ~~It is~~ relied upon for the review petitioners by the letter dated 6.9.88 ^{shows} that the roster register has to be maintained as per the extant orders. The remaining portion in that para deals with regard to the various contingencies and as to how the vacancies have to be filled up.

7. Maintenance of the roster register is different from the method of filling up various vacancies which may arise. Roster register has to be referred to for the purpose of noting as to whether a particular vacancy is reserved or unreserved and if it is reserved whether it is SC or ST. Roster register does not indicate as to how any vacancy has to be filled up. For that, various circulars or letters or Office Memos were issued. Thus, when the letter dated 6.9.1988 is specifically referred to in regard to the maintenance of the roster register only, in para 5 of the letter dated 6.9.1988, it cannot be stated that the other paras in the letter dated 6.9.1988 are incorporated in the letter dated 16.6.1992.

8. Even the following sentence i.e., "the percentage of SC/ST employees working in the particular grade must be worked out at each stage to ensure that it does not fall below the prescribed percentage" ^{and in} the letter dated 6.9.1988 does not indicate that even when ^a OC vacancy arises, the same should be treated as reserved when the particular reserved community is

contd....

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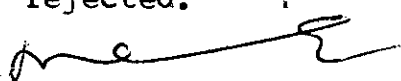
.. 6 ..

not sufficiently represented in the promotional cadre. Any how, it is not specifically to the effect that the OC vacancy should be treated as reserved vacancy if the number of employees of the particular reserved community in the promotion post is less than the percentage prescribed.

9. Thus, we do not find any ground for review.

10. The delay in filing the review petition is only 25 days. In the circumstances referred to, the delay is condoned and the MA is accordingly allowed.

11. For the reasons stated, the R.P. is rejected.


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 7th June, 1994.
Open court dictation.


Deputy Registrar(J)CC

vsn

To

1. The Workshop Personnel Officer, Wagon Workshop, S.C.Rly, Guntupalli.
2. The Deputy Chief Mechanical Engineer, Wagon Workshop, S.C.Rly, Guntupalli.
3. The Chief Personnel Officer, S.C.Rly, Railnilayam, Secunderabad.
4. One copy to Mr. N. R. Devraj, Sr. GSC CAT. Hyd.
5. One copy to Mr. V. Rama Rao, Advocate, CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

pvm

14/6/94
20/6/94

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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

AND

THE HON'BLE MR. A. B. G. RTHI : MEMBER(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 7-6 -1994.

ORDER/JUDGMENT: →

M.A./R.A./C.A. No. 102/94.

O.A.No.

T.A.No.

in
RP. 31/94 in
994/93.
(W.P.)

Admitted and Interim Directions
Issued.

MA
Allowed

Dismissed.

Dismissed as withdrawn

Dismissed for default.

RP
Rejected/Ordered.

No order as to costs.

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