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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

O.A.No.1356/93

Dt.of decision :09.08.1995

Between

1. B. Kesava Rao
2. Y. Gopalarao
3. M.A.Sattar
4. T.S.Setty
5. B. Govinda Rao

.. Applicants

and

1. Divisional Rly Manager, SERly, Visakapatnam.
2. General Manager, SERly, Visakapatnam.
3. Union of India rep by Secretary, Rly, Board, New Delhi.
4. M.M. Saha, Mail Guard, SERly, Rayagada.
5. M.M. Saha, Mail Guard, SERly, Visakapatnam.
6. M.S.Rao, Mail Guard, SERly, Visakapatnam
7. J.Gunayya, Mail Guard, SERly, Visakapatnam
8. G.Pradhan, Mail Guard, SERly, Visakapatnam.
9. N.R.Mistry, SERly, Kirandul, Bastar.
10. J.Simhadri, Rly Guard, SERly, Visakapatnam.
11. Rajdeo, Rly Guard, SERly, Kirandul, Bastar
12. Kailasham, Rly Guard, SERly, Kantabanji, Bolangir
13. N.M.Sarkar, Rly Guard, Visakapatnam.
14. V.Prasada Rao, Passenger Guard, Visakapatnam. SERly.

.. Respondents

Counsel for the Applicants :: Mr V.Rama Rao

Counsel for the respondents :: Mr CV Malla Reddy, SC for Rlys.

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO, VICE-CHAIRMAN

HON'BLE SHRI R. RANGARAJAN, MEMBER (ADMN)

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ORDER

As per Hon'ble Shri Justice V.Neeladri Rao, Vice-Chairman

Heard learned counsel for both the parties.

2. These applicants were working as 'A' Grade Guards in the pay scale of Rs.1350-2200 by 1.10.1993, the date on which this OA was filed. They were, ~~admittedly, seniors~~ to R4 to R12 in the category of Guard 'C' grade. While the applicants are OCs, R4, R5, R7 and R9 to R12 are SCs, ~~and R6~~ and R8 are STs.

3. After the restructuring had come into effect on 1.3.1993, there were 31 sanctioned posts of 'A' Special Grade Guards. By then, there were 13 SCs and 5 STs in the category of ~~Guard 'A' Special~~ grade, while as per 15% and 7½% reservation, only 5 posts were available for SCs and 3 were available for STs.

4. A Full Bench of this Tribunal held in OA 759/87 (V.Lakshminarayana Vs Union of India) that the ^{not} SCs/STs are ~~entitled~~ for promotion as against SC/ST roster point, if the SCs/STs in the promotional post are in excess of 15% and 7½%. Basing on the said Judgement, this OA has been filed praying for a declaration that the promotions given to SCs/STs over and above 22.5% of posts at any given point of time in the category of 'A' Special Grade ~~Guard~~ Guard in the scale of Rs.1400-2600 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 that the order No.WP/306/PI-VI dt.27.3.1993 issued by the Divisional Personnel Officer, SERly, Waltair is illegal and unconstitutional, and for a consequential direction to the respondents to promote candidates other than SC/ST to the posts of 'A' Special Grade Guards.

(44)

5. The proceeding dated 27.3.1993 of the Divisional Personnel Officer, SERly, Waltair, is a part - provisional panel for promotion to the post of Passenger Guard in 'A' Special Grade in the pay scale of Rs.1400-2600, as approved by DRM on 20.3.1993.

6. On 29.10.1993, an interim order was passed by this Bench whereby the respondents were directed that the vacancies available from time to time in the grade of 'A' Special Grade Guards which is also called Passenger Guard in the pay scale of Rs.1400-2600 have to be filled up in accordance with 40 point roster system subject to the condition that the posts held by the members of SC/ST shall not exceed 15% and 7½% at any given point of time and if a person belonging to SC/ST is promoted on his own merits and not in a reserved vacancy, then such appointment ^{had} ~~have~~ to be excluded while computing the required percentage for implementing the scheme.

7. R4 to R8 were promoted even by 28.1.1993. R4 to R7 ~~and R8~~ are admittedly seniors to the applicants in the category of Guard 'A' ~~Special~~ grade for which the next promotion is 'A' special grade Guard. As their promotions were on the basis of their seniority in 'A' grade Guards, they cannot be ~~reckoned~~ ^{be} for consideration ^{to} as whether there is an excess of 15% and 7½% in regard to SC/ST. Hence, the challenge of the applicants as against the promotions of R4 to R7 ~~had~~ to be rejected.

8. The ^{1st} applicant, ~~R9~~ and R10 were promoted to the category of Guard 'A' Special grade only on 9.5.1995, while R8 had been promoted to the category of Guard 'A' Special Grade on 28.1.93. As R8 is admittedly junior to the first applicant in the category of Guard 'A' Grade and as there were already excess SC/ST candidates in ~~Grade~~ 'A' Special grade guard, the first applicant has to be shown as senior to R8 in the category of Guard 'A' Special Grade.

Copy to:-

1. Divisional Railway Manager, South Eastern Railways, Visakhapatnam.
2. General Manager, South Eastern Railways, Garden Reach, Calcutta.
3. ~~Union~~ Secretary, Railway Board, Union of India, New Delhi.
4. One copy to Mr. V. Rama Rao, Advocate, 3-5-926/19/A, 1st Floor, Main Road, Himayatnagar, Hyderabad.
5. One copy to Mr. C. V. Malla Reddy, S.C. for Railways, CAT, Hyderabad.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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9. Both the first applicant and R10 entered the category of A grade Guard on 17.4.1984 and in that category, the first applicant was placed above R10 and even in the category of 'A' Special Grade Guard, the first applicant is shown as senior to R10. Hence, the first applicant cannot have any grievance in regard to the same.

~~R9 is senior to all the applicants and also R8.~~

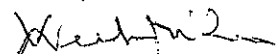
10. While the second applicant is senior to R12, the applicants 3 and 4 are juniors even to R12 in the grade of A grade guard. In fact, the applicants 2 to 4 and R11 and R12 are not yet promoted to the category of Guard 'A' Special grade. It is needless to say that the ~~later~~ ^{hereafter} promotion to the post of Guard 'A' Special grade have to be ^{made} in accordance with the Judgement of the Apex Court in Sabarwal's case. (reported in 1995(1) SCALE 685).

11. In the result, the respondents R1 to R3 are directed to place the first applicant and R10 above R8 in the seniority list of Guard 'A' Special grade in the pay scale of Rs.1400-2600. R9 has to be placed above first applicant in the seniority list of Guard 'A' Special grade. Promotions to the post of Guard 'A' Special grade hereafter have to be made in accordance with the Judgement of the apex court in Sabharwal's case cited supra.

12. OA³ ordered accordingly. No order as to costs. //



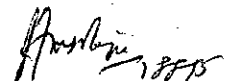
(R. RANGARAJAN)
Member (Admn)



(V. NEELADRI RAO)
Vice-Chairman

Dated: The 09th August, 1995

Dictated in the Open Court


Dy. Registrar (Judl)

07 1356/93

THPED BY

CHECKED BY

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 7-8 1995.

ORDER/JUDGMENT:

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

OA.No.

in

1356/93

~~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

Central Administrative Tribunal
DESPATCH
28-AUG 1995
HYDERABAD BENCH.