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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

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C.A.No.121/1994.

(per HON'BLE SHRI R. RANGARAJAN, MEMBER (A))

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Date: March 31, 1997.

Between:

1. B.Sambaiah
2. K.Suribabu.
3. S.Kamalakara Rao.
4. P.Jojibabu.
5. S.Srinivasa Rao.
6. V.Surya Rao.
7. R.K.Tutta.
8. P.Sivarama Krishna.
9. M.N.Harish Bau,
10. K.B.S.Subramanyam.
11. P.Kailashanath Kumar.
12. A.V.S.Kumar.
13. K.G.G.Koshore.
14. T.Rambabu.
15. M.Subramanyam.
16. K.Govardhan Rao.
17. K.R.K.Prasad.

Applicants.

And

1. General Manager, South Eastern Railway,
Garden Reach, Calcutta-43.
2. Chief Personnel Officer, South Eastern
Railway, Garden Reach, Calcutta - 43.
3. Divisional Railway Manager, South
Eastern Railway, Dondaparty, S.E.Railway,
Visakahapatnam 530004.
4. Divisional Personnel Officer,
S.E.Railway, Dondaparty,
Visakhapatnam 530 004.
5. Secretary, Railway Sports Control Board,
Railway Bhavan, Railway Board,
New Delhi.

Respondents.

Name of the counsel for applicants: Sri P.B.Vijaya Kumar.

Name of the counsel for Respondents: Sri N.R.Devraj.

CORAM:

Hon'ble Shri R.Ranga Rajan, Member (A)

Hon'ble Sri B.S. JAI PARAMESHWAR, Member (J).

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O.A.No.121/94.

(Per Hon'ble Shri R. Ranga Rajan, Member (A))

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Heard Sri P.B.Vijaya Kumar for the applicants
and Sri N.R.Devraj for respondents.

There are 17 applicants in this O.A., It is
stated that they are appointed against Sports Quota
earlier to 21-2-1986. Respondent No.5 issued a Circular
Letter No. R RSCB/RSQ/Policy/86 dated 21-2-1986 d/21.2.1986
which reads as under:

"Cases have been brought to the notice
of this Board that Sports men are being
fixed at the start of the grade(s) at
the time of initial recruitment against
sports quota.

It may please be ensured that such re-
cruitments are made with fixation of pay
at the maximum of grade, unless the sports-
men so recruited are complete youngsters.

Respondent No.2 thereafter issued a Policy Letter No.
SERSA/Policy/Rectt/Class IV/92 dated 30-11-1992 amplyfying
the above letter of Respondent No.5 which reads as
follows:

The appointments made in Group "D" category
against sports quota on or after 2-2-1986
may be reviewed in terms of RSCB's letter



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N.RSCB/RSQ/Policy/86 dated 2-2-1986 and the benefit ~~as~~ for fixation of pay at the maximum of grade may be processed to be effected in the eligible cases from the date of appointment of the candidates.

Sportsmen recruited prior to 2-2-1986 cannot be extended the above benefit of fixation of pay at the maximum of the grade.

Those who are recruited against the sports quota below the age of 18 years should be reckoned as youngsters and they would, therefore, not be eligible for fixation of pay at the maximum of the Grade.

The above has the approval of CPO/GRC."

Respondent No.2 has interpreted the letter of Respondent No.5 to the effect that the employees appointed against Sports Quota can get their pay fixed at the maximum of the scale at the commencement of their pay scale in the ~~are~~ category in which they are appointed only if they/appointed on or after 21-2-1986. That policy decision was further amplified by the Estt.Srl.Circular No.46/93 (Page 15- Annexure I to the O.A). Para 3 of the said circular is relevant

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which reads as under:

Therefore, while fixing up the pay in cases of appointment made in Group 'D' Post against sports quota, the following clarifications should be kept in view:

- i) The cases of appointments made in Gr. 'D' category against sports quota on or after 21-2-1986 may be reviewed in terms of RSCB's letter No. RSCB/RSQ/Policy/86 dated 21.2.1986 and the benefit for fixation of pay at the maximum of grade may be processed to be effected in the eligible cases from the date of appointment of the candidates.
- ii) Sports persons recruited prior to 21-2-1986 cannot be extended the benefit of fixation of pay at the maximum of the grade,
- iii) Those who are recruited against sports quota below the age of 18 years, should be reckoned as youngsters and they would, therefore, not be eligible for fixation of pay at the maximum of the grade."

This O.A., is filed for quashing para 3(ii) of Estt.Srl.Circular No.46/93 by declaring that it is discriminatory, illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and for further direction to the respondents to extend all

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the benefits extended to their juniors by proceedings dated 4-11-1992 (Annexure IV to O.A.) of Respondent No.3 with effect from the date of initial appointment of the applicants with all consequential and attendant monetary and other benefits.

A reply has been filed in this O.A.

The main point that arises for consideration in this O.A., is:

"Whether the Circular Letter No.RSCB/RSQ/Policy/86 dated 21-2-1986 is applicable to those who were appointed against Sports Quota even ~~earlier~~ earlier to 21-2-1986"

It appears that Respondent No.2 has issued the Estt.Srl.Circular No.46/93 dated 6-4-1993 without obtaining any clarification from Respondent No.5. Even in the reply filed by Respondent No.2, there is no mention that the impugned Estt. Srl.Circular No.46/93 was issued after consultation with Respondent No.5.

The learned counsel for the applicants submits that if the Railway Board's Circular dated 21-2-1986 is not extended to the Sports Quota appointees appointed earlier to 21-2-1986, it will be a case of discrimination.

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Further, the learned counsel for the applicants submits that there is no reasonable nexus in the classification in fixing the "Cut off" date. The learned counsel further submits that in case of employees appointed against Sports Quota their pay has to be fixed in accordance with Respondent No.5's letter dated 21-2-1986 irrespective of the fact whether such Sports persons were appointed earlier or later to 21-2-1986. It is further stated by the learned counsel for the applicants that even in some cases of the sports quota appointees appointed earlier to 21-2-1986 their pay had been fixed at the maximum scale of pay.

When we enquired from the learned counsel for respondents, whether the Estt. Srl. Circular No. 46/93 dated 6-4-1993 had been issued in consultation with Respondent No.5, the learned counsel for the respondents submitted that he has no material to submit in this connection. He also admits that the counter is also silent on this aspect of the matter. In view of the above, we feel that the interpretation of the Circular issued by Respondent No.5 as amplified in the Estt. Srl. Circular No. 46/93 is not in consonance of the policy decision taken by Respondent No.5. The said serial Circular should not

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have been issued without proper approval of Respondent No.5. In that view, the impugned Estt. Srl.Circular No.46/93 dated 6-3-1993 in so far as it refuses to fix the pay of the Sports Quota appointees appointed earlier to 21-2-1986 at the maximum pay of the said category in which they were appointed is concerned has to be set aside and further Respondent No.2 should be directed to approach Respondent No.5 in this connection and with his approval a fresh Estt. Srl.Circular has to be issued in accordance with the standing instructions.

In view of the foregoing discussion, the following directions are issued:

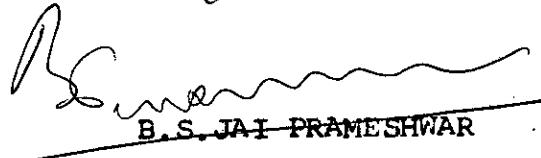
- i) The Estt.Srl.Circular No.46/93 dated 6.4.1993 in so far as it refuses to fix the pay of the Sports Quota appointees appointed earlier to 21-2-1996 at the maximum pay of the said category in which they were appointed is set aside.
- ii) Respondent No.2 is further directed to approach Respondent No.5 to ascertain the purport of Respondent No.5's letter dated 21-2-1986 and on that basis issue a fresh circular in this connection.

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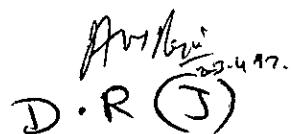
iii) A decision in this connection should be taken and communicated to the concerned within a period of four months from the date of receipt of a copy of this Order.

The O.A.m is ordered accordingly. No costs.

 
B.S. JAI PRAMESHWAR R. RANGARAJAN
Member (J) Member (A)
31/3/97

Date: 31--3--1997

Dictated in open Court.


D.R. (J)

sss.