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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.1300/95

Date of Order: 5.12.95

BETWEEN:

A.Suseela

N.S.Suniam

.. Applicants.

A N D

1. The Divisional Railway Manager,
South Central Railways, Personal
Branch, Guntakal Post, Ananthapur,
Dist.

2. The General Manager, South
Central Railways, Secunderabad.

.. Respondents.

Counsel for the Applicants

.. Mr.M.N.Narasimha Reddy

Counsel for the Respondents

.. Mr.G.S.Sanghi

CORAM:

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

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

JUDGEMENT

Dt: 5.12.95

Heard Shri M.N.Narasimha Reddy, learned counsel for the applicant and Shri G.S.Sanghi, learned standing counsel for the respondents.

2. This OA was filed praying for direction to the respondents to consider the case of the applicants (who are ^{SCs} and Physically Handicapped) by duly applying the rule of reservation and roster as enumerated in Brochure on Reservation of SCs and STs in Railway service and ^{appoint} ~~accord~~ ⁱⁿ them Group-C and D posts for which they appeared for interview on 28.6.95.

3. The facts which give rise to this OA are briefly as under:

Notification dated 31.1.95 was issued for appointment for Group-C and D posts from among Physically Handicapped. The contention for the applicants is that reservations have to be made to the extent of 15% and 7½% for SCs and STs respectively in the vacancies that have to be filled from among Physically Handicapped ~~to the extent to which seniority was fixed for them.~~

4. The same point was considered by the Apex Court in ~~Indra Sawhney's case~~; JT 1992(6) SC 273; Indra Sawhney and others Vs. Union of India. Therein it was held that reservation for SCs/STs/OBCs may be called vertical reservation, while the reservation for Physically Handicapped persons is horizontal reservation and the latter reservation cut across vertical reservation. Thus it was observed that there will not be any separate reservation for SCs/STs/OBCs in the reservation made for Physically Handicapped persons and similar other categorieis

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for which reservations are made and which reservations can be held as horizontal reservations. Basing on the said judgement, the Ministry of Personnel, PG & Pensions No.F No.36035/16/94- Estt.(SCT), dated 20.9.94 issued instructions which reads as under:

The undersigned is directed to refer to the DOPT O.M. No. 36035/17/85-Estt. (SCT), dated 1.4.86 on the subject mentioned above and to state that the Government had under consideration the method of effecting the 3% reservation for physically handicapped persons in the light of the judgement of the Supreme Court in Indira Sawhney case (W.P. No. 930 of 1990). The Court has held that reservation for SC/ST/OBCs may be called vertical reservation and the reservation for physically handicapped persons as horizontal reservation. Horizontal reservations cut across vertical reservation (in what is called interlocking reservation) and the persons selected against the physically handicapped quota have to be placed in the appropriate category; if he belongs to SC category he will be placed in that quota by making necessary adjustment and similarly if he belongs to open competition (OC) category he will be placed in that category by making necessary adjustment. Even after providing for these horizontal reservations, the percentage of reservation in favour of backward class of citizens should remain the same.

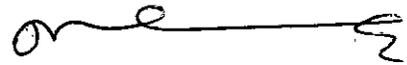
2. In the light of the above-said observations of the Supreme Court, it has been decided that the physically handicapped persons selected under the reservation provided for them should be placed in the appropriate category viz. SC/ST/OBC/General category depending upon the category to which they belong. For example, if in a given year there are 200 Group C vacancies, the reservation for SCs will be 30, for STs it will be 15, for OBCs it will be 54 and for General Category it will be 101. The vacancies reserved for physically handicapped will be calculated as per the instructions on the subject contained in O.M. dated 1.4.86. Suppose the vacancies for the Physically Handicapped in that year come to 6 and of the 6 physically handicapped candidates selected, 1 belongs to the SC category 1 to the ST category, 2 to the OBC category and 2 to the General category, then the one physically handicapped SC candidate will be adjusted against the 30 SC vacancies, the one physically handicapped ST candidate will be adjusted against the 15 ST vacancies and the 2 physically handicapped, OBC and General category candidates against the 54 OBC and 101 General Category vacancies respectively. The Roster points will be filled up accordingly. The vacancies reserved for the physically handicapped should be indicated alongwith the other vacancies so that the physically handicapped candidates can also apply alongwith the others.

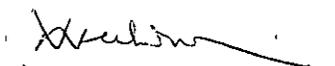
5. It is manifest from the above that if one who is selected in the Physically Handicapped category happens to be SC/ST/OBC, the quota for the relevant reserved category gets reduced to that extent.

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6. In view of the judgement of the Apex Court in Indra Sawhney's case ^{referred to} supra, this OA does not merit consideration.

7. Accordingly this OA is dismissed at the admission stage. No costs.//


(R.RANGARAJAN)
Member (Admn.)


(V.NEELADRI RAO)
Vice Chairman

Dated: 5th December, 1995.
Open court dictation.


Deputy Registrar (J/CC)

vsn

To

1. The Divisional Railway Manager, SC Rlys, Personal Branch, Guntakal Post, Ananthapur Dist.
2. The General Manager, SC Rlys, Secunderabad.
3. One copy to Mr. M.N. Narasimha Reddy, Advocate, 9th Law Chambers, High Court of A.P. Hyderabad.
4. One copy to Mr. G.S. Sanghi, SC for Rlys. CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI
VICE CHAIRMAN

AND

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

DATED: 5-12-1995

ORDER/JUDGMENT

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

in

O.A.No. 1300/95

T.A.No. (W.P.No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed. *at the admission stage.*

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm.

No Spare Copy

