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CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

Original Application No. 1395/96

DATE OF DECISION: 23-12-97

-----N. Abdul Nabi-----Petitioner(s)

-----K.K. Chakravarthi-----Advocate for the
Petitioner(s)

Versus
UOI, rep. by its Secretary
Dept. of Posts, Min. of Communications
-----Dak Bhawan, New Delhi-1-----Respondent(s)

-----V. Rajeswara Rao-----Advocate for the
Respondent (s)

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

THE HON'BLE SHRI B.S. JAIPARAMESHWAR, MEMBER (JUDL.)

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?
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Judgement delivered by Hon'ble Shri B.S. Jai Parameshwar, M(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.1395/96

dt.23-12-1997

Between

N. Abdul Nabi : Applicant

and

1. Union of India, rep. by
Its Secretary
Dept. of Posts,
Min. of Communications
Dak Bhavan, New Delhi 1

2. Magadevan, Bangalore
3. Konailal Saha, Calcutta
4. Sushil Kumar Laskar, Calcutta
5. K.G. Shinde, Nagpur, and
6. V. Ganapathi, Madras

: Respondents

Counsel for the applicant : K.K. Chakravarthi
Advocate

Counsel for the respondents : V. Rajeswara Rao
CGSC

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HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

HON. MR. B.S. JAI PARAMESHWAR, MEMBER (JUDL.)

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Order

Oral order (per Hon. Mr. B.S. Jai Parameshwar, Member (Jud1))

Heard Sri K.K. Chakravarthy, learned counsel for the applicant and Sri V. Rajeswara Rao, learned counsel for official respondents.

Private

1. Notice has been served on Respondents 3 and 4. Notices to Respondents- 2 to 5 and 6 has been sent on 11-7-1997. As six months had already passed and as already Private Respondents received copy of OA, the OA is disposed of as under

The applicant has filed this OA being aggrieved by non-adherence of the principles laid down by ^{the Hon'ble} Supreme Court of India in the case of RK Sbharwal Vs. State of Punjab reported in 1995(2)SCC 745, that in regard to the question of filling up of posts on the basis of reservation of SC & ST, once the prescribed percentage of posts is filled, the numerical test of adequacy is satisfied and thereafter the roster does not survive.

2. The applicant qualified in the Junior Accounts Officers' Examination conducted by the respondents and was appointed as JAO on 25-12-1982. He was subsequently promoted as Asst. Accounts Officer on 11-3-1988. The applicant had put in 14 years of service as JAO and was fully eligible for consideration for promotion to the post of Accounts Officer. It is submitted that promotion to the post of Accounts Officer is 50 per cent on the basis of selection and the remaining on the basis of seniority-cum-fitness. It is submitted that there were 239 posts of Accounts Officers in the respondent's Department. That consequent upon the introduction of 80:20 scheme out of 239 posts of Accounts Officers 191 have been upgraded as Senior Accounts Officers with effect from 1.4.92

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thereby leaving 48 posts in the grade of Accounts Officers and as per the applicable formula of 15% for Scheduled Caste and 7.5% for Scheduled Tribe categories and thus consequent upon the upgradation of 191 posts of Accounts Officers to that of Senior Accounts Officer, the position remained as follows :

Cadre	Total No. of posts	15% for SCs	7.5% for STs
Sr.A.O.	191	29	14
A.O.	48	7	4

As against the above, the actual factual position as on 1.7.1996 is indicated below :

Cadre	Total No. of posts	15% for SCs	7.5% for STs
Sr.A.O.	191	10	1
A.O.	48	26	3

3. The above distribution was done earlier to 10-2-1995 i.e. the rule applicable as directed by the Supreme Court in Sabharwal case. The applicant can ask for his promotion per the rules laid down by Sabharwal case only for promotion as Accounts Officer which arises after 10-2-1995. The applicant in his written argument dated 2-12-1997 in para-2 submits that the above rule was not even followed for the posts of Accounts Officer which had arisen even after the pronouncement of judgement in Sabharwal case.

4. This OA is filed praying for a direction to the respondent to adhere to the law laid down by the Hon.ble Supreme Court and not to give any reservation benefits

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over and above the prescribed quota to the reserved category persons especially in the instant case of promotion to the post of Accounts Officer and for consequential direction to consider ^{the case of} the petitioner for promotion to the post of Accounts Officer.

5. As stated earlier the applicant is entitled for consideration for promotion following the Supreme Court Judgement in the Sabharwal case only after these posts which had arisen after 10-2-1995 even after that a fresh seniority list has to be prepared as per the direction given in the case. It is not clear from the written statement that such exercise had ^{an} ~~in fact~~ not been made by the respondent. Hence, at this juncture to ask for details from the respondent will only delay the process with no benefit to the applicant. Hence, we are of the opinion that the respondent should consider his promotion for the post of Accounts Officer that had arisen after 10-2-1995 and if his case has to be considered as per the seniority rules as laid down by the Supreme Court, then the respondent should take suitable action for considering his case.

6. In view of what is stated above, Respondent ^{No. 1} directed to consider the case of the applicant whether he is eligible for the post of Accounts Officer which had arisen after 10-2-1995 and if his case is not considered as per the law laid down by the Apex Court, the respondent should reconsider his case. If he is not eligible for promotion on ^{above} ~~the~~ basis, the respondent should inform the applicant suitably within a period of three months from the date of ^a receipt of copy of this order. Till such time the applicant

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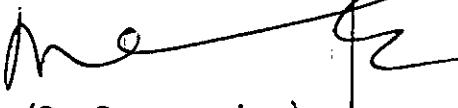
is
 has been informed in pursuance of the above direction,
 the interim order in MA.871/97 in OA.1395/96 dated 1-10-97
 and also the interim order dated 6-1-1997 shall be in
 force.

7. With the above direction the OA is disposed of.

No costs.


 (B.S. Jai Parameshwar)
 Member (Judl.)

23.12.97


 (R. Rangarajan)
 Member (Admn.)


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Dated : December 23, 97
 Dictated in Open Court

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