

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL APPLICATION NO.938 of 1999

DATE OF JUDGMENT:  JUNE, 2000

BETWEEN:

1. BOLLIPO WILSONS APPLICANT No.1  
(Since expired and the OA is abated  
insofar as the Applicant NO.1  
is concerned).

2. S.M.BASHA APPLICANT NO.2

AND

1. Union of India represented by  
the General Manager,  
South Central Railway,  
Secunderabad,
2. The Divisional Railway Manager,  
S.C.Railway, Vijayawada,
3. The Senior Divisional Personnel Officer,  
S.C.Railway,  
Vijayawada. .. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.K.K.CHAKRAVARTHY

COUNSEL FOR THE RESPONDENTS: Mr.V.RAJESWAR RAO, CGSC

CORAM:

HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

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

JUDGEMENT

ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN))

Heard Mr.K.K.Chakravarthi, learned counsel for  
the applicants and Mr.V.Rajeswar Rao, learned standing  
counsel for the respondents.

2. The learned counsel for the applicants submitted  
that the Applicant No.1 had expired. In view of the above,  
the OA in regard to the applicant No.1 abates. Hence, the  
OA as far as the applicant NO.1 is concerned is dismissed  
as abated. Hence the OA is with respect to the relief



asked for by the Applicant NO.2.

3. Before the case is discussed, it is to be stated that the material available in the OA affidavit as well as the material available in the reply and the rejoinder is very scanty to come to any definite conclusion. Under that situation, to dispose of the OA finally is not proper and feasible. However, the case has been examined and some observations are being made. The respondent-authorities should examine the issue *denovo* keeping the observations in mind and dispose of the case in accordance with law by a speaking order and a reply should be issued to the Applicant NO.2.

4. A notification No.B/P.608/I/2/Vol.3, dated 25.5.99 (Annexure R-I to the reply) was issued for formation of a panel for promotion to the post of CTI/TCG.Gr.I in the scale Rs.6,500-10,500 RS(RP) in the Commercial Department of Vijayawada Division. 10 employees have to be kept in the panel comprising of 1 UR, 7 SCs and 2 STs for promotion to the post of CTI/TCG.Gr.I.

5. That notification dated 25.5.99 also indicates a list of 23 employees who are required to appear for the written examination. The name of the applicant is not found in that list. The applicant submits that the seniority in the lower grade of TTI has been wrongly fixed including the SC and ST candidates even though the requirement of 15% of SCs and 7½% of STs in the cadre strength was available. In view of the fact that the SCs and STs were called for fixing their seniority ~~suitably~~ *erroneously*, the name of the applicant has been left out though he is

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senior to them. He further contends that the direction given by the Apex Court in R.K.Sabharwal's case reported in AIR 1995 SC 1371 (R.K.Sabharwal v. State of Punjab) is not followed in that if the cadre strength consists of 15% and 7½% of SC and ST candidates respectively then no reservation is permitted. He also contends that the respondents failed to adhere to the OM of the Railway Board bearing No.36012/2/96-Estt.(Res), dated 2.7.1997 (Annexure A-4 at page 15 to the OA). It is stated that in view of the above discrepancies he has submitted a representation on 11.6.99 enclosed as Annexure A-2 at page 12 to the OA. The applicant contends that the representation has <sup>not</sup> been disposed of. In the meantime, the respondent-authorities are going ahead with the written test to finalise the selection proceedings. He also contends that, earlier, R-3 filled up 4 posts of SCs vide his memo dated 25.7.97 (Annexure A-3 at page 14 to the OA) which is illegal. He also submits that at that time itself in April 1997 he demanded to revise the seniority list basing on OM dated 2.7.97 issued by the Govt. of India but that was also not considered.

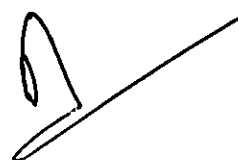
6. In view of the above, this OA is filed praying for declaration that the action of the respondents in not considering the OM dated 2.7.97 issued by Govt. of India ignoring the seniority of the applicant and conducting written examination on 26.6.99 for the post of CTI/TCG.Gr.I in violation of the rules and Articles 14 and 16 of the Constitution of India, is illegal, arbitrary and consequently he prays for a direction to the respondents to cancel the impugned notification dated 25.5.99 and to

revise the seniority list by providing an opportunity to the applicant for promotion as CTI.,

7. An interim order was passed in this OA on 24.6.99 permitting the respondents to go ahead with the written test but the result of the test so held shall be subject to the result of this OA.

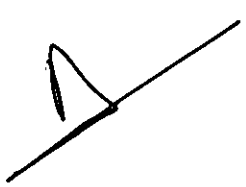
8. In the reply, the career advancement of the applicants has been indicated. As regards the applicant NO.2, he was initially appointed as Ticket Collector on Hubli Division on 22.5.72 and later he was promoted as Sr. Ticket Collector/Travelling Ticket Examiner on 22.9.77. He was transferred to Vijayawada Division as TTE on 13.9.78. Subsequently, he was promoted as Head Travelling ticket Examiner on 1.1.84. At the time of filing this OA, he was working as Travelling Ticket Inspector in the grade of Rs.1600-2660/5500-9000 with effect from 1.3.93.

9. The respondents further add that the joint representation of the applicant dated 11.6.99 has been examined and was dismissed as having no merit. As the SC/ST employees who were promoted on their own merit and seniority are treated as Unreserved candidates in terms of the instructions contained in the Railway Board's letter dated 21.8.97 communicated in the Serial Circular NO.156/97 whereby they adhered to the break up worked out in the notification dated 25.5.99. They also submit that the Chief Ticket Inspectors/Train Conductor Guard was advised to notify the representationists accordingly vide letter



dated 24.6.99 (Annexure R-2 to the reply).

10. The requirement of SCs and STs against the divisional sanctioned strength of 64 is 10 for SCs and 5 for STs. They submit that there were only 4 SCs and 3 STs who were promoted against the reserved quota. Thus, there was a shortfall of 6 SCs and 2 STs as on 1.4.99. During the period of anticipated vacancies i.e, 15 months time, one more SC vacancy will accrue to the shortfall. By taking into this account, the final requirement of SC/ST <sup>was</sup> worked out to be 7 for SCs and 2 for STs respectively. 51 Unreserved candidates were working against the sanctioned strength of 49. Thus, there was excess operation of two Unreserved candidates. In the said 15 months time, three more Unreserved employees will retire on superannuation. By taking this into account, the requirement of Unreserved candidate is calculated as 1. Thus the notification was issued for filling up 10 posts of Chief Ticket Inspector with a break up of 1-UR, 7-SC and 2-ST. They also submit that the seniority of those SC and ST candidates who were promoted after 10.2.95 against the reserved quota has been revised in accordance with the Railway Board's letter dated 28.2.97 and that was issued by the letter dated 1.10.97 (Annexure R-IV to the reply). Hence they reject the contention of the applicant that no revised seniority was prepared subsequent to 1995. They further emphasise that the employees belonging to the reserved category who were appointed on the basis of their merit and not on account of reservation are not to be counted towards the quota meant for reservation. In other words, they are to be treated as general category. They also contend that in the panel of 5

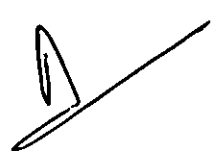


UR, 4 SCs and none ST candidates issued vide earlier letter dated 11.3.97 (Annexure R-VII to the reply) to the post of Chief Ticket Inspector/Train Conductor Guard, four employees whose names were given in sub para (ii) of para 3 of the reply, were empanelled against SC reserved quota.

12. From the above submission of both the sides, following points need clarification:-

(i) The name of the SC and ST candidates who were promoted after 10.2.95 in the feeder category of Travelling Ticket Inspector were on the basis of the reserved quota or general quota <sup>is here indicated</sup>. If they were promoted against the reserved quota, whether their seniority has been fixed suitably in the feeder category of Travelling Ticket Inspector.

(ii) While issuing the notification dated 25.5.99, whether the break up of 1 UR, 7 SC and 2 ST for formation of the panel of Chief Ticket Inspector is in accordance with the judgement in Sabharwal's case cited supra. At the time of issuing the notification dated 25.5.99, the exact cadre strength and the availability of SC and ST candidates in that cadre, has to be spelt out so as to ensure that the percentage fixed for the reserved candidates does not exceed 15% and 7½% respectively <sup>in the total cadre strength</sup>. It is also not very clear whether those who were called for selection in pursuance of the notification dated 25.5.99 were in accordance with the revised seniority list as mentioned in Item (i) above. This has also to be clearly stated.

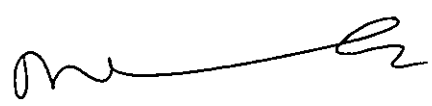


(iii) Whether the panel was formed to ensure that non fulfilment of 15% and 7½% has been brought upto date by calling SC and ST officials prominently for the selection for which the notification was issued on 25.5.99. If so, under what provisions it was done and whether that object is in accordance with the Sabharwal's case cited supra wherein it is stated that before closing 40 point roster, constitutional obligation for reservation of the posts has to be complied with.

(iv) It is seen that reservation as per the notification dated 25.5.99 exceeds 50%. Whether it is in order and if so under what rule and also quoting the Apex Court judgement in this connection *if any*.

13. As stated earlier, we feel that the whole case needs a review in view of the scanty details available in the OA affidavit and the reply. In that view, we are of the opinion that R-2 shall review the whole issue keeping the observations made above in mind and issue a detailed order revising or otherwise of the notification issued on 25.5.99 and also forming a panel on that basis. A speaking order in this connection, after review, should be issued to the applicant NO.2 within a period of three months from the date of receipt of a copy of this order.

14. The OA is ordered accordingly. No order as to costs.

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

  
(D.H. NASIR.J)  
VICE CHAIRMAN

DATED: 12<sup>th</sup> JUNE, 2000

*Any*  
*me*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD

1ST AND 2ND COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

COPY TO:

1. HDHND ✓
2. HRRN (ADMN) MEMBER
3. HBSJP (JUDL) MEMBER
4. D.R. (ADMN) ✓
5. SPARE ✓
6. ADVOCATE
7. STANDING COUNSEL

THE HON'BLE MR. JUSTICE D.H. NASIR  
VICE-CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN  
MEMBER (ADMN) ✓

THE HON'BLE MR. B.S. JAI PARAMESHWAR  
MEMBER (JUDL)

20/6/2000

DATE OF ORDER 12/6/2000

MA. A/C.P. NO.

CA. NO. 938/99

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REGISTERED

NO ORDER AS TO COSTS

(7 copies)

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal प्रेषण / DESPATCH 19 JUN 2000 हैदराबाद न्यायपीठ HYDERABAD BENCH
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