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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No.940 of 1986

Bajrang Bahadur Singh Plaintiff

Versus

Union of India and Others Respondents

Hon.S.Zaheer Hasan, V.C.
Hon. Ajay Johri, A.M.

(By Hon.Ajay Johri, A.M.)

Suit No. 1957 of 1984 has been received on transfer from the Court of Munsif City Kanpur. The plaintiff Bajrang Bahadur Singh was working in the Field Gun Factory Kanpur as a Labour 'B'. In 1981 he was directed by the Chairman of the Trade Test Board of the Factory to appear before a trade test for the post of Steel Melter 'C'. According to the plaintiff he is the senior most of all the candidates who were directed to appear in the above trade test and that is why his name was shown on the top of the list. The plaintiff appeared in the trade test and was declared successful vide order dated 3.3.1982 and because of his seniority and performance in the said trade he says that he was shown on the top of all the successful candidates but inspite of seniority and performance the defendants have with mala fide intentions ignored him and his juniors Lalchand Yadav, Janki Prasad and

G.S. Pandey has been redesignated as Steel Melter 'C' vide Factory Order No. 412 of 3.3.1982. The plaintiff was promoted to Steel Melter 'C' ^{be only} ~~w.e.f.~~ 21.4.82 as per another Factory Order dated 21.4.82. The plaintiff challenged his non-promotion on the grounds that he considered himself seniormost and that his seniority should have been maintained while under the above two orders he has been placed in the lowest position. He has therefore prayed that a decree of declaration be passed in his favour and against the defendants that the supersession of the plaintiff by his juniors namely Lal Chand Yadav, Janki Prasad & G.S. Pandey ^{by} ~~and Ram Ray~~ is wrongful, unconditional and unjust and he should be treated senior to all of them.

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2. In their written statement the defendants have submitted that the plaintiff was sponsored for trade test of Steel Melter 'C' alongwith others. Seven candidates out of 26 were declared successful in the trade test of Steel Melter 'C' alongwith the plaintiff. The trade test result was published on 3.3.1982. To determine the seniority amongst the successful candidates the seniority in the pay scale as Labour 'B' or equivalent grade was reckoned. According to the defendants some of the Pitmen and Ladlemen who were originally in the grade Rs.196 - 232 and whose pay scales were revised to Rs.210 - 290

had applied for redesignation as Steel Melter 'C' and consequently they were redesignated by an order dated 3.3.82 and no financial benefit was given to them. The plaintiff who was also in the pay scale of Rs. 196 - 232 was ^{3/} also promoted w.e.f. 21.4.82. According to the defendants the plaintiff's seniority has not been affected and he can not be declared senior to Lal Chand Yadav, Janki Prasad, G.S. Pandey and Ram Raj as they were in a higher scale prior to becoming Steel Melter 'C' and since the plaintiff was promoted from a lower grade to a higher grade he was considered to be junior to them.

3. We have heard the learned counsel for both parties. Shri R.M.Shukla, the learned counsel for the plaintiff had contended that the plaintiff was not only shown on the top list of the candidates who were called for the trade test but ^{3/} ~~they~~ ^{other} were redesignated as Steel Melter 'C' from the posts of Pitmen and Ladlemen and the order of redesignating them, a copy of which has been filed as Paper 6 in the list of documents submitted by the plaintiff, indicates that as the redesignation has been done in the interest of the individuals they will reckon their seniority in the new trade from the date of redesignation as per D.G.O.F's letter No.2206/5/A/A(III) dated 11/13.7.82. By this order ^{3/} ~~because~~ Lal Chand Yadav, Janki Prasad, G.S.Pandey and Ram Raj were redesignated

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as Steel Melter 'C' w.e.f. 3.3.82. Another paper has been filed at Sl.No.4 which is the trade test result of the individuals sponsored for trade test of Steel Melter 'C'. In this list there are seven names. The ~~@@~~ plaintiff appears at Sl.No.1. Lal Chand Yadav, Janki Prasad and G.S. Pandey appear at Sl.No.2,3 and 4 and Ram Raj appears at Sl.No.7. This paper does not show that the names have been arranged in the order of seniority as claimed by the plaintiff. As a result of this trade test, by an order No.691, the plaintiff was promoted w.e.f. 21.4.82. This is as per paper No.7 filed by the plaintiff in the list of documents.

4. The above two orders one redesignating the Pitmen and the Ladlemen to Steel Melter 'C' on their own request which was done on 3.3.82 and the promotion of the plaintiff on 21.4.82 as a result of trade test held on 3.3.82 give an indication that the plaintiff was promoted to the grade Rs.210-290 from the grade Rs.196 - 232 on 21.4.82 ^{by only} while the other persons whom he has named were redesignated as Steel Melter 'C' on account of the grades of Pitmen having already been upgraded to Rs. 210 - 290 earlier. The plaintiff was a Labour in the grade Rs.196 - 232 and his post was not upgraded to the grade Rs.210 - 290 while the other persons were also in the grade Rs.196-232 but their posts were upgraded to the grade Rs.210 - 290 by an order No.512 dated 23.12.81. They were

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redesignated as Steel Melter 'C' on 3.3.82. Even this date was earlier to the date of promotion of the plaintiff.

5. A contention has been made by the learned counsel for the plaintiff that all the persons were trade tested together and the results were announced on 3.3.82. ^{in the case} Even for a change of designation of a person from Pitman to Steel Melter 'C' it is necessary that he should qualify himself in a trade test and therefore though the other persons who were Pitmen were already in the grade Rs.210-290 they have to undergo a trade test, the result of which was published on 3.3.82 and their names appear in the same list as that of the plaintiff. But this cannot give the plaintiff a cause to claim seniority over those who were already in the grade Rs. 210 - 290 having been upgraded with effect from 23.12.81. The plaintiff therefore has no case and has not been able to understand or appreciate the intricacy of determination of seniority. He is claiming the seniority on the basis that in the list of the result to the trade test his name appears on the top and therefore he is senior most as also he joined as Labour 'B' earlier than others. This is a mistaken notion and cannot form a basis of determination of seniority amongst persons who are not similarly placed.

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6. We have also noted that the plaintiff has not impleaded the persons against whom he has asked for revision of his seniority. Therefore the case should fail even on account of misjoinder. We are, however, not considering this aspect. There is no doubt that the plaintiff was promoted as Steel Melter 'C' w.e.f. 21.4.82 and the others against whom he is claiming his seniority had their designations changed w.e.f. 3.3.82 to Steel Melter 'C' though they were in identical scale of Rs. 210 - 290 having been upgraded w.e.f. 23.12.81 in their parent trade. By virtue of having got the upgraded scale of Rs. 210 - 290 earlier they became senior to the plaintiff irrespective of the fact that the plaintiff joined as Labour 'B' in 1975 and they in 1977. No violation of any statutory inhibition has been pleaded before us and there is also no violation of any Service Rule. There is neither any arbitrariness in the whole situation. We, therefore, find no merit in the plaintiff's prayer.

7. In the result the petition (Suit No. 1957 of 1984) is dismissed. Parties will bear their own costs.

Yours
V.C.

For/At
A.M.

Dated the 15/4/87 April, 1987
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