

25-8-95

Hon'ble Mr. Justice B.C. Saksena, V.C.

Hon'ble Mr. S. ^{Das Gupta} ~~Das Gupta~~ A.M.

Vide order dated 26-7-95, it was provided that since it is an old case, it does not ^{need} ~~need~~ any further adjournment and the case was ^{directed to be} ~~directed to be~~ listed for hearing on 25-8-95 with the direction that no further adjournment shall be allowed. The Applicant had filed a writ petition in the Hon'ble High Court, which was registered as W.P. No. 2807/82), Thereafter, it was transferred to this Tribunal and registered as T.A. No. 985/85. In view of the order dated 26-7-95, even though none of the Counsel for the parties have appeared, we have proceeded to decide the O.A. on the basis of pleadings on record.

2. The facts in brief are that the Applicant was working as Class IV employee in the year 1963. In the year, 1967, he was working as a Carpenter. The post had been declared surplus, the Applicant and other Carpenters were asked to undergo other category of training, which was available. The Applicant got himself trained as Fitter in the year 1966-67, The trade test for the said discipline was taken in 1967 and the Applicant was declared to have been passed. The Applicant continued to be paid basic scale of Rs. 210-190 and he claims that he should now be placed in the scale of Rs. 260-350. He preferred representation from time to time and reply was given to the said representations, copy of which is Annexure-2. The said letter only indicates that the representation has been forwarded to Commandant 508 Army Base Workshop, Allahabad for examination and necessary action. The Respondents in their CA have indicated that remustering of surplus Carpenters to the grade of Fitter was referred to the Competent Authority but the same was not approved on the ground that the unit where the Applicant

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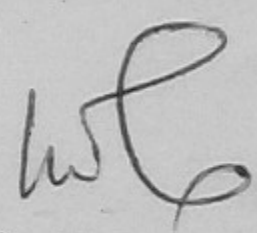
was working was surplus of Fitters in the long term trade structure. Subsequently, when remustering was made in the year, 1991, the Applicant on his own say was called to appear at the trade test of Carpenter, but he declined to appear on the ground that he has already passed trade test for the post of Fitter. In this circumstance, the Applicant has failed to respond to be placed in the higher scale of Rs.260-350 and further place him in the category of Fitter. The Respondent in their CA have also indicated that when the Applicant refused to appear for the trade test in the year, 1991, it was not possible to place the Applicant in the grade of Rs.260-350. It has also been indicated that a particular trade can only be promoted to fullfledged tradesman after rendering three yearssservice as tradesman mate and passing trade test of fullfledged Mechanic. It has been indicated that a Carpenter and ^{Journey} Junior Mate can be promoted to fullfledged Carpenter and ^{Journey} Junior mate and not to fullfledged Fitter or any other trade, in view of that of Fitter in the instant case. It has also been pleaded in the CA that the passing of the trade test by the Applicant of Fitter in the year 1967, could not be considered for the reason indicated above since the trade of Fitter was surplus in the unit, and, therefore, the Applicant was called when he became eligible for the trade test for the Carpenter, but the Applicant had declined. No RA has been filed by the Applicant to the CA.

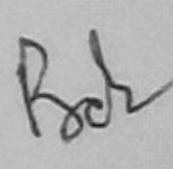
3- That in view of the pleadings on record, since the Applicant had refused to undergo the trade test for the post of fullfledged Carpenter, the Applicant has to thank himself. Without his having passed the said

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he cannot be placed in the fullfledge trade of Carpenter. The claim for being fitted in scale of Rs.260-350 in the category of Fitter for which he qualified in the year 1967, can also not be accepted for the reasons indicated in the CA. Accordingly fullfledge trade of Fitter has been rejected as earlier in 1968. However, since the Applicant had filed a writ petition and this is a transfer application, we ^{do not} ~~do not~~ consider it appropriate to dismiss the T.A. on the ground of limitation prescribed in Section 21 of the ^{A.T. Act} ~~GAT~~. On merits in view of what has been indicated above. No case for the relief claimed is made out. The T.A. is accordingly dismissed. The parties will bear their own costs.

R.B.D./


A.M.


V.C.