

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 31st day of January 2003.

QUORUM : HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.
HON. MAJ. GEN. K.K. SRIVASTAVA, A.M.

O. A. No. 593 of 1995

Bhagwat Vishwakama, aged about 43 years S/O Late Ram Pratap Vishwakama R/O EWS/8, Barra-III, Kanpur, presently employed as Fitter General (Skilled), T.No.62/Gun-3 Shop, Ordnance Factory, Kanpur..... Applicant.

Counsel for applicant : Sri M.K. Upadhyay.

Versus

1. Union of India through the Secretary, Ministry of Defence, Department of Defence Production, Govt. of India, New Delhi.
2. Chaiman, Ordnance Factory Board/Director General of Ordnance Factories, 10-A, Auckland Road, Calcutta.
3. General Manager, Ordnance Factory, Kanpur.

..... Respondents.
Counsel for responde-nts : Sri P. Mathur.

O R D E R (ORAL)

BY HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.

By this O.A. Under Section 19 of A.T. Act, 1985, the applicant has prayed for a direction to respondents to grant promotion to the applicant as Fitter General (H.S. Gr.II) from Fitter General (Skilled) with retrospective effect from the date his juniors were promoted. It is further prayed that the applicant is entitled for relaxation in normal rules and for reservation, special preference, ^{and} a physical handicapped employee.

2. The facts of the case are that the applicant joined as Machenist on casual basis on 23rd Dec.1976. The applicant was given regular appointment as Machenist 'B' w.e.f. 25.4.77 in the scale of Rs.210-290. The pay scale of the applicant was subsequently upgraded. While the applicant was working on a machine in the Gun-3 Shop of the Ordnance Factory, Kanpur

he met with a serious accident on 15.9.1980 which resulted in retina detachment of the right eye resulting in total blindness of right eye and damage to the left eye also. The applicant was given treatment in various hospitals. On 15.9.1980, the applicant was declared unfit on account of defect in the eye sight. The applicant was permitted to resume duty vide letter dated 31.7.1981. The applicant was promoted as Fitter General (Skilled). In 1988, applicant was finally assessed by medical experts and it was found that he has only 20% vision in the left eye and the right eye is totally blind. The grievance of the applicant is that during this period promotions were granted to his juniors on 24.4.90 and 25.10.1994 and he was illegally ignored though he was entitled for promotion on the basis of reservation as physically handicapped employee.

3. Resisting the claim of the applicant, counter affidavit has been filed wherein it has been stated that the applicant could not be promoted in the trade test as he failed for Fitter General, H.S. Grade-II. It is also stated that the applicant is not entitled for benefit of the reservation as his vision is so poor that he could not be promoted as Fitter General (High skilled Grade-II). The case of the Respondents is that ^{policy} ~~purpose~~ of reservation cannot be applied in these circumstances against the particular post. It has also been stated that in 1990 and 1994, the applicant was asked to appear in the trade test but the applicant intimated that he had suffered a major accident in which he had lost 100% vision and t-he same could be retrieved by 20% after long medication. He experienced lot of difficulty even while pouring water into a glass and cannot identify the surface on which he might have to do the Fitter's work. Since [^] ~~This~~ accident, he is working in the section godown and not doing the Fitter's work at all. These avements made in the counter affidavit have not been controverted in the rejoinder. In the circumstances, it is difficult to accept the claim of the

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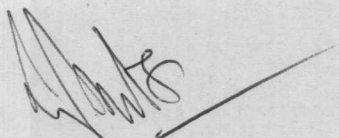
applicant that he was superseded illegally in ^{an} arbitrary manner.

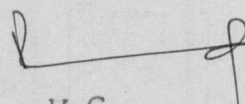
4. We have carefully considered the submissions of the parties and in our opinion, no interference is called for in these ~~circumstances under the~~ facts and circumstances of the case. It may also be noted at this place that the applicant had been subsequently granted promotion w.e.f. 1.10.1997. The learned counsel for applicant submitted that if he was found fit for working as Fitter General, H.S. Grade-II in 1997, he could also be found fit in 1990 and 1994. We have examined these submissions, ^{however}, we do not find any merit in view of the fact that the applicant himself refrained ^{from} appearing in the trade test and expressed his difficulty ^{on account of} ~~being~~ loss of vision and mainly claimed promotion on basis of reservation.

5. In these circumstances, it cannot be said that the respondents committed any illegality in not promoting the applicant. It was unfortunate that applicant ~~was~~ ^{he} suffered vision loss in accident but the respondents had tried to compensate him ⁱⁿ ~~the~~ maximum possible ^{manner} under the rules.

6. For the reasons stated above, this O.A. lacks merit and dismissed accordingly.

No order as to costs.


A.M.


V.C.

Asthana/