

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW DELHI~~
NEW BOMBAY BENCH

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T.A. No. 212/87

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DATE OF DECISION 12.2.1988

Shri V R Bankapure Petitioner

In person Advocate for the Petitioner(s)

Versus

Union of India Respondent

Shri S R Atre Advocate for the Respondent(s)
(for Shri P M Pradhan)

CORAM :

The Hon'ble Mr. B C Gadgil, Vice Chairman

The Hon'ble Mr. L.H.A. Rego, Member(A)

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 it needs to be circulated to other Benches of the Tribunal?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400614

TRANSFERRED APPLICATION NO. 212/87

Shri V R Bankapure
Compositor Gr.I
Government of India Press
Gandhinagar
Nashik 422006

Applicant

V/s.

The Union of India
through the Secretary
Ministry of Works & Housing
Nirman Bhavan
A-Wing,
New Delhi 110011

Respondent

Coram : Hon'ble Vice Chairman B C Gadgil
Hon'ble Member (A) L H A Rego

Appearance:

Applicant
in person

Shri S R Atre
(for Shri P M Pradhan)
Advocate
for the Respondent

JUDGMENT

Dated : 12.2.1988

(Per: B C Gadgil, Vice Chairman)

Regular Civil Suit No. 875/83 of the file of the Civil Judge Senior Division, Nashik, is transferred to this Tribunal for decision.

2. The applicant (original plaintiff) is an employee in the Government of India Press. He claims in the suit that he should be promoted to the post of Lino Operator with effect from 5.11.1973 or any other subsequent date as per his seniority in the feeder post. There are also other incidental reliefs such as arrears of salary etc.

3. The applicant joined service with the said Press in 1956 as a Distributor. On 19.2.1957 he was promoted to the post of Compositor Gr.II and was confirmed in

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that post on 30.12.1960. The applicant has passed the trade test for Grade-I some time in 1971 and according to him he has worked in that Grade-I post from 15.2.1972 to 25.9.1976. He has also passed the trade test of Lino Operator in 1973. During this period he was also promoted to the post of Lino Operator for about two months i.e., 5.11.73 to 31.12.73. However, the applicant on the date of suit was working as a Compositor Gr.I, though one Compositor in Grade-II was promoted as a Lino Operator in 1973. According to the plaintiff the applicant is the only person due for promotion to the post of Lino Operator. However, he was denied that promotion. Another grievance of the applicant is that though 50% of the posts of Lino Operators are by direct recruitment and 50% by promotion, still 2 persons were deemed to be promoted in 1973 in excess of the direct recruitment. With these allegations he filed the suit in question with the prayers as mentioned above.

4. The respondents resisted the suit by filing the written statement. According to that written statement and the submissions made before us any trade test passed by an employee would be valid for a period of three years. There was no clear vacancy of Lino Operator from 1973 to 1976 and consequently the trade test passed in 1973 was of no use even if it is assumed that after 1976 the applicant was entitled to the promotion. The respondents denied that the applicant was continuously working as Compositor Gr.I from 15.2.1972 to 25.9.1976. It was alleged that during these four years the applicant has worked as Compositor Gr.I on ad hoc basis intermittently on three occasions viz., (i) 15.5.1972 to 8.6.1972; (ii) 6.6.1973 to 4.11.1973; & (iii) 1.1.1974 to 24.9.1975. It was contended that this promotion was purely temporary and on ad hoc basis. Similarly the promotion of Lino Operator was temporary. One Shri Bhalekar who was Compositor Gr.II and junior to the plaintiff was selected for the post of Lino Operator in 1972 while the applicant qualified in the trade test for the post of Lino Operator subsequently i.e., on

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5.5.1973. It was denied that there was any excess direct recruitment of two persons as alleged.

5. We have heard the applicant in person and Shri S R Atre for the respondents. From the arguments before us it is clear that the applicant worked as Compositor Gr.I on an ad hoc basis and with intermittent breaks. These breaks are not notional breaks. On the contrary some of them are for sufficiently long period. For example the applicant worked as Compositor Gr.I from 29.7.81 to 28.10.81, thereafter he was reverted as Compositor Gr.II and then again appointed as Compositor Gr.I 17.12.81 and subsequently reverted. These details are available from the chart shown to us. This chart also shows that the applicant has not worked as Compositor Gr.I continuously from 1972 to 1976.

6. Upto 1973 the promotions were being effected on the basis of the draft recruitment rules. Shri S R Atre, Counsel for the respondents, showed us those rules whereunder Compositor Gr.I and Compositor Gr.II were eligible for promotion as Lino Operator. It was contended by Shri Atre that Bhalekar (who was Compositor Gr.II) was promoted in 1972 on the basis of these draft rules and he has continued to hold the post of Lino Operator since then. The recruitment rules were finalised in 1974. The final rules provide that the feeder post to the post of Lino Operator would be only Compositor Gr.I. Hence after the coming into force of the 1974 recruitment rules the applicant, though he passed the trade test in 1973, could not aspire for the post of Lino Operator when he was working only as Compositor Gr.II. Shri Atre also showed us the record from which it is clear from 1973-1974 (i.e., when the recruitment rules came into force) that the post of Lino Operator was not available. Hence the applicant could not be promoted to the post of Lino Operator upto 1974 under the draft rules and after the rules were finalised he was not eligible, till he became a regular Compositor Gr.I. It was submitted, that though the applicant worked as Compositor Gr.I intermittently till 1987 on ad hoc

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basis he was regularised in that grade only on 25.6.1987. Under the final rules of 1974 an employee has to put in three years of regular service as Compositor Gr.I for becoming eligible to hold the post of Lino Operator. Thus the applicant has not that much regular service of three years to his credit and fulfil this requirement only in June 1990. Another contention of the respondents is that under the rules passing of the trade test would be valid for three years and that the trade test of 1973 which the applicant has undertaken would not be of any use to the applicant. Shri Atre also told us that there are a number of Compositors Gr.I who are senior to the applicant and who have passed the trade test. He has rightly contended that in this background the applicant cannot claim promotion to the post of Lino Operator merely because he has worked in that capacity in 1973 for a short period of two months.

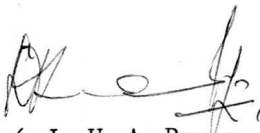
7. We have already observed that the applicant has made a grievance that in 1972 two persons have been directly recruited in excess of 50% quota. The respondents have denied this allegation. Apart from that, it will be too late in the day to make a grievance of such alleged excess direct recruitment for the purpose of contending that the applicant should have been promoted to the post of Lino Operator. Even if this contention is accepted, the applicant cannot have any advantage thereof inasmuch as there are many other senior Compositor Gr. I who have passed their trade test and are more eligible for the post of Lino Operator.


8. After taking into account the above position we do not think that the applicant has any cause for grievance which may be validly accepted.

ORDER

The application is, therefore, dismissed.

Parties to bear their own costs.


(L H A Rego)
Member(A)


(B C Gadgil)
Vice Chairman