

(12)
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

CAMP AT NAGPUR.
199

~~S.A. NO.~~

T.A. NO: 256/87

DATE OF DECISION 19.11.1991

Shri U.V.Khade.

Petitioner

Shri P.T.Trivedi

Advocate for the Petitioners

Versus

Ordinance Factory, Chadrapur & Anr

Respondent

Shri Ramesh Darda.


Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman,

The Hon'ble Mr. M.Y.Priolkar, 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 ?


(U.C. SRIVASTAVA)
VICE-CHAIRMAN.

mbm*

(13)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY,
CAMP AT NAGPUR.

Tr. Application No.256/87.

Shri U.V.Khade.

... Applicant.

V/s.

Ordnance Factory, CHANDRAPUR & Anr. ... Respondents.

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman,
Hon'ble Shri M.Y.Priolkar, Member (A).

Appearances:

Applicant by Mr.P.T.Trivedi

Respondents by Mr.Ramesh Darda.

Oral Judgment:-

Dt. 19.11.1991.

(Per Shri Justice U.C.Srivastava, Vice-Chairman)

By means of this application the applicant has prayed for quashing of order dt. 4.9.1982 by which it has been directed that the individuals who have been promoted to the grade of Junior Examiner w.e.f. 20.3.1978 are granted notional seniority from 2.1.1978 and the respective notional seniority granted in these cases is only for the limited purpose of the seniority in the grade of Junior Examiner for further promotions without any financial implications.

2. The applicant who was working as Labour 'B' grade was allowed to appear for Trade Test for promotion to the post of Junior Examiner. The applicant succeeded and thereafter was appointed as such. He again appeared for I.Es Trade Test and having succeeded the same was promoted as Examiner Gr.II w.e.f. 30.5.1980. Subsequently, it appears that the trade test to the post of Junior Examiner was held again and many persons including R-2 passed in the Trade Test. They were promoted to the post of Junior Examiner w.e.f. 20.3.1978 vide order dt.20.3.78.

...2.

But subsequently vide impugned order they have been promoted w.e.f. 2.1.1978 the result of which according to the applicant is that of course, the applicant will be junior to these persons as in the service prior to appearing in the Trade Test/ ^{the respondents} were senior to the applicant and according to the applicant the order is contrary to the principles of natural justice and discriminatory and illegal as the respondents have no authority or power to grant such notional seniority and the same is not based on any rule.

3. The respondents have resisted the application and have stated that various facts have not been pointed out. It has been stated that the applicant was promoted as Painter 'C' w.e.f. 17.10.1974 and at his request was reverted as Labourer 'B' grade w.e.f. 19.12.1974. On 25.8.1977 Trade Test for Junior Examiner was notified and 435 applications which were of unskilled Industrial Employees were received and were forwarded to a Scrutiny Board comprising of 2 Gazetted Officers for selection of eligible candidates for Trade Test and by the recommendation the scrutiny board 81 seniormost I.Es who belonged to one particular section i.e. W.I. and experienced of one year in W.I. Section and whose regular appointment dates were on or before 31.12.1973 were allowed to appear in the Trade test and test was conducted. This was done because the trade of Junior Examiner is relevant mainly to W.I. section only. Out of these 60 candidates including the applicant who had passed the Trade Test were declared passed in the Trade Test vide order dt. 28.12.1977. Subsequently, to meet the additional requirement of junior examiners further names of the unskilled I.Es out of the same list of 435 applications who were working in various sections of the Factory and holding regular appointment from the date on or before

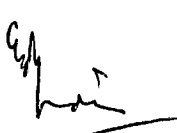
...3.

31.12.1973 were scrutinised by the Scrutiny Board and sent to the Trade Test and had three lists. The R-2 appeared in List II and he was appointed on regular basis as Labourer 'B' grade w.e.f. 2.7.1973 and was senior to the applicant in the initial grade of Labourer. The appointments undoubtedly were made on 20.3.1978. But based on certain complaints, the ^{Ordnance} erroneous Factory Board appointed one man committee to examine the correctness of the decision of sponsored candidates. As per para 1 to 3 and distributing their seniority in their initial grade, the Committee recommended as follows:-

"The Committee observed that while considering the eligibility for appearing in Trade Test, the normal principle of allowing all unskilled Industrial Employees to trade test for semi-skilled grade on the basis of seniority irrespective of sections to which they belonged should have been followed. Accordingly, the committee recommended that the seniority of the 54 I.Es. promoted w.e.f. 20.3.1978 should be ante-dated notionally to the date from which other IEs earlier tradetested were promoted, that is from 2.1.1978, which is the date of promotion of the petitioner & Factory Order dt. 4.9.1982 (Annexure I) to this effect was published. It was done to set right the injustice inadvertently meted out to the latter batches of I.Es. for trade test due to incorrect interpretation of rules and omission to update the trade test specifications. The new Factory Order Part-II No.806, dated 4.9.1982 thus nullified the wrong place accorded to the respondent No.2 in the grade of Junior Examiner on the basis of his later promotion and restored his original inter-se seniority in the unskilled grade because now all the concerned IEs stood effectively or notionally promoted w.e.f. 2.1.1978. The net result was that the respondent no.2 regained his original seniority over the petitioner. The recommendations of the Committee and its acceptance and implementation were consonant with the rules on the subject which the earlier Board of Officers constituted to scrutinise the 435 applications either erroneously over looked or misinterpreted. In this connection, the Indian Ordnance Factories (recruitment, promotion and conditions of service of class-III and Class-IV Industrial Personnel) rules, 1963 refers which has been circulated vide DGOF letter No.419/III/A/A, dt. 29.11.1963. A copy of the letter and the

said rules are filed as Annexures J & K Part.III of the said rules (initial portion of para 5 and para 6) lays down clear guidelines for promotions of class-III and Class-IV Industrial Employees. It was in the light of these rules that superseding the mode of sponsoring the applicants adopted by the Board of Officers, and consequences thereof, antedating of applicants like respondent no.2, was done."

4. The committee correctly found out that how those persons were entitled to appear in the examination and subsequently they were also examined, once they were wrongly deprived of appearing in the trade test for no fault of their own and may be the mistake of departmental anomaly they cannot lose their seniority when they pass^{ed} the same trade test when they were allowed to appear and rightly one who was senior has been granted notional seniority w.e.f. date when he was entitled to which otherwise he would have got had he not ^{been} wrongly deprived of appearing in the said examination. Accordingly we do not find any good ground to interfere and the application deserves to be dismissed. It is accordingly dismissed. No order as to costs.


(M.Y. PRIOLKAR)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN.

B.S.M.