

CENTRAL ADMINISTRATIVE TRIBUNAL

(5)

BOMBAY BENCH

OPEN COURT / PRE DELIVERY JUDGMENT IN OA 371/89

Hon'ble Vice Chairman / Member (J) / Member (A)
may kindly see the above Judgment for
approval / signature.

.....

*Yours
W.D.*

V.C. / Member (J) / Member (A) (K/S)

Hon'ble Vice Chairman

Hon'ble Member (J)

Hon'ble Member (A) (K/S)

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 371/89.

~~TransFax Aarkitsoftbox~~

DATE OF DECISION: 2/9/1994

Krishna Gopal Kushwaha, Petitioner

Shri C. Nathan, Advocate for the Petitioners

Versus

Union Of India & Another, Respondent

Shri Subodh Joshi, Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M. S. Deshpande, Vice-Chairman.

The Hon'ble Shri R. Rangarajan, Member (A).

1. To be referred to the Reporter or not? M

2. Whether it needs to be circulated to other Benches of
the Tribunal? M

(R. RANGARAJAN)
MEMBER (A).

(8)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO.: 371/89.

Krishna Gopal Kushwaha ... Applicant

Versus

Union Of India

through the Senior Personal Officer,
Central Railway Workshop,
Matunga, Bombay - 400 019
and Another.

... Respondents.

CORAM :

Hon'ble Shri Justice M. S. Deshpande, Vice-Chairman.

Hon'ble Shri R. Rangarajan, Member (A).

APPEARANCE :

1. Shri C. Nathan,
Counsel for the applicant.

2. Shri Subodh Joshi,
Counsel for the respondents.

JUDGEMENT

DATED : 29/1994

(Per. Shri R. Rangarajan, Member (A)).

1. The applicant here in O.A. No. 371/89 is a highly skilled grade-I Fitter in Matunga Workshop of Central Railway. He was trade tested for the post of ~~Trade Fitter~~ ^{thru} highly skilled grade-I by an order dated 08.12.1980 in the Parel Workshop, Bombay of Central Railway and he was declared passed both in practical and oral test ~~securing~~ ^{securing} 62% marks (exhibit 'B'). It is stated by the applicant that he was promoted to the grade of Highly Skilled Grade-I Fitter

(9)

on 01.09.1981. In April, 1982 he was transferred to Central Railway Workshop, Matunga, Bombay and posted in Fitting Shop. There he continued as a Fitter Highly Skilled Grade-I till 22.11.1988 and he was promoted to officiate as Maistry on 23.11.1988 in the grade of Rs. 1400-2300 and he was continued as such. ^{Impugned} An Order no. E-577-A/Fitter dated 31.05.1989 was issued reverting the applicant from the post of Maistry to the post of Fitter Highly Skilled grade-I and respondent no. 2 was promoted as Maistry in his place (exhibit 'C'). It is this order that is assailed in this O.A.

2. The applicant states that he was regularly promoted ^{as} Fitter Highly Skilled grade-I with effect from 01.09.1981 in his trade and that he is entitled for seniority in the grade of highly skilled grade-I Fitter from that date. He further states that respondent no. 2 is junior to him, as can be seen from the seniority list issued on 08.05.1989 (exhibit 'D'). As per this exhibit, the respondent no. 2 was promoted to the grade of Rs. 1320-2040 on 17.01.1983, whereas the applicant was promoted to that grade on 01.09.1981. In view of his date of promotion to the grade of Rs. 1320-2040 being earlier to respondent no. 2, he is senior to respondent no. 2 and hence reverting him from the post of Maistry and appointing respondent no. 2 in his place is irregular and illegal. //The respondents in their reply statement has stated that the applicant was promoted only in the Production Control Organisation (P.C.O. for short) and that he is promoted in his

A

substantive cadre to the post of highly skilled grade-II only on 01.01.1984, and to the grade of Highly Skilled Grade-I on 14.08.1988 whereas the respondent no. 2 was promoted to the highly skilled grade-I earlier to the applicant. No date of promotion of respondent no. 2 to Highly Skilled Grade-II ^{in his hands} has been indicated in the reply statement and it is only merely stated that the respondent no. 2 is senior to the applicant. It is further submitted by the respondents that the applicant being junior to the respondent no. 2 in the substantive cadre, he was reverted from the post of Maistry to Highly Skilled Grade-I and the respondent no. 2 was promoted. In the rejoinder to the reply, it is stated by the applicant that respondent no. 2 is also from the Production Control Organisation and to that effect they have produced a seniority list ~~dated 08.05.1989~~ wherein the respondent no. 2 is shown as having been promoted to the grade of Fitter grade-II as on 01.08.1978. However, it is also stated in the rejoinder that respondent no. 2 was also promoted as Highly Skilled Grade-I in the Production Control Organisation on 17.01.1983 and continued to work in that department till the reversion of the applicant took place.

3. The Learned Counsel for the respondents had submitted that respondent no. 2 was also promoted in the Production Control Organisation to Highly Skilled Grade-II and Grade-I but he could not state the date of promotion to those grades. As per the seniority list issued on 08.05.1989 (exhibit 'D'), it clearly shows that respondent no. 2 was promoted to the grade of Rs. 1320-2040 on 17.01.1983 whereas the applicant was promoted to that grade on 01.09.1981. The seniority list placed before

us by the Learned Counsel for the applicant at the time of hearing shows that the respondent no. 2 was promoted as Fitter Grade-II on 01.08.1978 only in Production Control Organisation. As the applicant was also promoted to the post of Fitter Grade-I in the Production Control Organisation earlier to the respondent no. 2, it is to be construed that the respondent no. 2 is junior to the applicant both in the Production Control Organisation as well as in their own grade. As the respondents could not categorily give the dates of promotion of the respondent no. 2 in his parent trade, it is to be presumed that he is junior to the applicant, and in view of the fact ~~that~~ ^{about} he was promoted to the Highly Skilled Grade Rs. 1320-2040 later than the applicant.

4. In view of the above appreciation, we have no hesitation in saying that the applicant is senior to respondent no. 2 and the reversion of the applicant to the post of Highly Skilled Grade-I from the post of Maistry and promoting respondent no. 2 from Highly Skilled Grade-I to ~~the post of Maistry, in the place of the applicant,~~ in the place of the applicant, is irregular.

5. In the result, the application is allowed and the order dated 31.05.1989 (exhibit 'C') is set aside and direct the respondents to promote the applicant as Maistry in the place of respondent no. 2 from the date he was reverted from the post of Maistry. It is needless to say that the applicant is entitled for the pay and allowances attached to the post of Maistry from the date he is reverted as Highly Skilled Grade-I.



6. The O.A. is disposed of as above. There will be no order as to costs.


(R. RANGARAJAN)
MEMBER (A)


(M. S. DESHPANDE)
VICE-CHAIRMAN.

OS*