

Prem Singh Vs. Union of India and ors.

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Court : Delhi

Decided On : Jul-29-2013

Judge : Pradeep Nandrajog

Appellant : Prem Singh

Respondent : Union of India and ors.

Judgement :

\$~R-34 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision: July 29, 2013 + W.P.(C) 7296/2001 PREM SINGH Represented by: Petitioner Mr.V.Sudheer, Advocate. versus UNION OF INDIA & ORS. Represented by: Respondents Mr.Kumar Rajesh Singh, Advocate for R-1 & 2. CORAM: HON'BLE MR.JUSTICE PRADEEP NANDRAJOG HON'BLE MR.JUSTICE V.KAMESWAR RAO PRADEEP NANDRAJOG, J.

(Oral) 1. We have heard learned counsel for the parties and at the outset note that inappropriate expressions have been used in the pleadings which have found a reflection in the impugned order passed by the Tribunal. The expressions do not bring out the legal issue which arises for consideration.

2. Everybody has been referring to a Combined Seniority List in the context of who would hold the post of an Assistant Manager, ignoring that Combined Seniority List have to be prepared of all persons holding same post and we cannot have a Combined Seniority List of persons holding different posts. Thus, a reference in

the pleadings and the impugned decision to a Combined Seniority List of Wash-boys, Assistant Halwaies, Salesman, Coupon Clerk and Assistant Manager is wrong.

3. From the pleadings of the parties, meaningfully read, the real issue which arises for consideration is whether petitioners grievance to Lakhan Singh being shown as an Assistant Manager in the so called Seniority List is correct in the context of the assertion made by the petitioner that Lakhan Singh was appointed as a Salesman and not as an Assistant Manager and as regards he i.e. the petitioner he being appointed as a Coupon Clerk and his chance of promotion as an Assistant Manager was lost.

4. We note that irrespective of the dispute pertaining to the so called Seniority List, the petitioner also has a grievance of one Kali Charan Sharma being promoted as an Assistant Manager.

5. It happened like this. A staff canteen was being run at the Loco shed of the Delhi Main Railway Station. The Supreme Court decided that the staff of such types of canteens should be absorbed in the Indian Railways and thus on August 22, 1980 the working of the canteen with which we are concerned was taken over by the Indian Railways and this necessitated absorption of the staff working in the canteen.

6. 13 people were working in the canteen holding different posts. As regards petitioner Prem Singh he was admittedly working as a Coupon Clerk and so was Kali Charan Sharma. The dispute pertains to the fact whether Lakhan Singh was working as an Assistant Manager or as a Salesman.

7. A list was drawn of all 13 employees in which their names, date of appointment and post held were noted, and this list is wrongly been called a Seniority List.

8. As per the petitioner, Lakhan Singh was wrongly shown as an Assistant Manager. The grievance is this that in this manner the petitioner lost ought the chance to be promoted as an Assistant Manager because the post of Assistant Manager was a promotional post to that of a Coupon Clerk.

9. The Tribunal has returned a finding of fact against the petitioner.

10. The main reason given by the Tribunal is that when the list was drawn up in the year 1982 Lakhan Singh was sent for being medically examined since he was being absorbed in a Government job and at that time it was recorded that the post for which Lakhan Singh was being sent for medical examination was that of an Assistant Manager i.e. the post held by him in the canteen.

11. Petitioner questions the logic of the reasoning by pointing out that this amounts to putting the cart before the horse because a list drawn up in the year 1982 could not be determinative of events as of August 22, 1980 when the canteen in question was taken over by the Northern Railway.

12. The argument sounds attractive but misses the point that admittedly Lakhan Singh worked as an Assistant Manager in the canteen in which petitioner worked as a Coupon Clerk. The petitioner never questioned Lakhan Singh working as an Assistant Manager till when he lost out on the race for promotion to the post of Assistant Manager when the other Coupon Clerk named Kali Charan out past him at the race on comparative merit. This happened in the year 1999 and at that stage petitioner filed OA No.1882/2000 questioning therein Lakhan Singh being inducted in the Indian Railways as an Assistant Manager when the canteen was taken over. This would mean that grievance of the petitioner to Lakhan Singh being absorbed as an Assistant Manager which was raised in the year 2000 was highly belated and had to be rejected on said ground alone apart from the fact that the grievance was without any basis for if petitioners grievance was correct he would have cried way back in the year 1980 when the canteen was taken over and Lakhan Singh worked as the Assistant Manager in the canteen.

13. As regards Kali Charan we find that in the year 1997 the post of Assistant Manager was shown as a selection post and the petitioner could not achieve the benchmark which Kali Charan achieved.

14. The writ petition is accordingly dismissed but without any order as to costs.
(PRADEEP NANDRAJOG) JUDGE (V. KAMESWAR RAO) JUDGE JULY 29 2013
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