

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 28th March, 2011

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W.P.(C) 2679/2004

% **P.C. JAIN**

.... Petitioner

Through: Mr. A.P. Dhamija, Advocate

Versus

**THE CHAIRMAN, STEEL AUTHORITY
OF INDIA LTD. & ANR.**

....Respondents

Through: Mr. Siddharth Yadav & Mr. K.B.
Thakur, Advocates

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | NO |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

RAJIV SAHAI ENDLAW, J.

1. The petitioner joined the then Hindustan Steel Pvt. Ltd. as a Senior Operative Trainee on 11th January, 1959 and was on 12th January, 1962 promoted as a Assistant Melter and in 1963 as Assistant Foreman, a Class-1 officer post. The respondent Steel Authority of

India Ltd. (SAIL) is the successor of the said M/s Hindustan Steel Pvt. Ltd. The services of the petitioner were terminated vide order dated 21st January, 1976. The petitioner along with certain other officers similarly terminated represented against the said termination and a High Powered Committee was constituted to look into the said termination. The said High Powered Committee recommended the case of the petitioner for re-appointment. However, the respondent issued an offer of re-appointment to the petitioner as a fresh entrant and which was accepted by the petitioner without prejudice to his rights and contentions. The petitioner again represented that he was entitled to be re-appointed with all consequential benefits and not as a fresh entrant. Not meeting with any success, the petitioner filed W.P.(C) No.2046/1983 in this Court for quashing of his order of re-appointment dated 24th December, 1980 as a fresh appointment and for direction to the respondent to reinstate the petitioner with all consequential benefits including seniority, continuity, promotions and other monetary benefits.

2. Another employee / officer of the respondent viz. Mr. P.C. Jha had also filed W.P.(C) No.2044/1983 also challenging his re-appointment as a fresh entrant and seeking re-appointment with all consequential benefits. The writ petition filed by the said Mr. P.C. Jha was allowed vide order dated 6th November, 1998; and the order in so far as re-appointing Mr. P.C. Jha as a fresh entrant was quashed and the said Mr. P.C. Jha was held entitled to all consequential benefits.

3. W.P.(C) No.2046/1983 preferred by the petitioner was also allowed vide order dated 20th November, 1998 on the same terms as the writ petition aforesaid of Mr. P.C. Jha.

4. The respondent in compliance of the orders aforesaid, though made payments to both, the petitioner and Mr. P.C. Jha, but did not grant the promotions to which both of them claimed entitled to. Both, the petitioner and Mr. P.C. Jha, filed contempt petitions being CCP No.509/1999 and CCP No.510/1999 in this Court. Vide orders in the said contempt petitions, the respondent was directed to consider the case of the petitioner and Mr. P.C. Jha for promotion. The respondent

in compliance of the said order constituted an Expert Committee and which submitted its report. In terms of the said report, though some further payment was released to the petitioner and Mr. P.C. Jha but according to the petitioner as well as Mr. P.C. Jha, they were not granted the promotion to which they claimed to be entitled to. The contempt petitions were disposed of with liberty to the petitioners to challenge the report of the Expert Committee so constituted to consider their case for promotion by a separate proceeding if so desired.

5. The aforesaid lead to the filing of the present writ petition. Mr. P.C. Jha also filed W.P.(C) No.5709/2003 in this regard.

6. The writ petition being W.P.(C) No.5709/2003 filed by Mr. P.C. Jha was allowed vide judgment dated 21st March, 2005 holding that since Mr. P.C. Jha had been denied promotion only on the ground of the earlier termination, he would be entitled to promotion from the date on which the person immediately junior to him or of the same seniority had been promoted.

7. The respondent preferred LPA No.1/2006 against the aforesaid judgment in favour of Mr. P.C. Jha. The said writ petition was allowed vide judgment dated 23rd March, 2006. It was held:

- (i) That the Single Judge while allowing the writ petition of Mr. P.C. Jha had not considered that promotion could not be claimed as a matter of right and had not gone into the question as to whether there was any error in the report of the Expert Committee holding Mr. P.C. Jha to be not entitled to promotion; that the reasons given by the Expert Committee had not been gone into by the Single Judge in allowing the petition.
- (ii) After examining the rules of promotion of the respondent, it was held that the promotions claimed were not as a matter of right or as a matter of seniority only and no error was found with the reasons given by the Expert Committee, of Mr. P.C. Jha on merits having no claim for promotion.

8. The review petition of the judgment allowing the appeal of the respondent against Mr. P.C. Jha was also dismissed on 7th August, 2007.

9. Notwithstanding the aforesaid, the present petition remained pending.

10. Even though the reasons given by the Expert Committee for denying claim of Mr. P.C. Jha and of the petitioner are different but the counsel for the petitioner in spite of opportunity has been unable to point out any error therein or as to how, what has been held vide judgment dated 23rd March, 2006 in LPA No.1/2006 (supra) qua Mr. P.C. Jha would not apply to the present petition. The counsel for the respondent has of course contended that the matter is identical and covered by the judgments in P.C. Jha's case which has attained finality.

11. I have nevertheless examined the report of the Expert Committee qua the petitioner (Annexure-C to the petition). The Expert Committee has examined the case of the petitioner vis-à-vis the other officers in

the same line of promotion with the petitioner. It has been found that prior to his termination on 21st January, 1976, the petitioner had been considered for promotion from time to time but had continued in the grade of Foreman; that the promotion from Foreman to the next higher post i.e. General Foreman was subject to availability of vacancy and on the recommendation of a Selection Committee to assess the suitability on the basis of qualification, experience, record of service, confidential reports and written examination or interview or both; that there was thus no scope for automatic promotion and promotions had always been regulated through written examination or interview or both; that for the purposes of promotion to the post of General Foreman for the years 1976, 1977, 1978 & 1979, the case of the petitioner on the basis of his preceding CCR ratings / qualification etc. was considered and the petitioner was not found fit for promotion to the post of General Foreman during that period as he was having poor CCR ratings during the relevant period and sometime even adverse CCRs; that the promotions to which the petitioner was entitled as per seniority were however granted to him till his superannuation on 30th June, 1995;

similarly, the other promotions on the basis of continuity of services to which the petitioner was found entitled to after re-appointment were also granted to him.

12. The matter is thus found to be squarely covered by the judgment in P.C. Jha's case. The petitioner has not made out any case for judicial review of the report of the Expert Committee and the matter being fully covered, the writ petition is dismissed. Even though the petitioner kept this writ petition alive notwithstanding the judgment in P.C. Jha's case and on account of similarity wherewith this petition was filed, but I refrain from imposing any costs on the petitioner.

**RAJIV SAHAI ENDLAW
(JUDGE)**

MARCH 28, 2011

'gsr'

(Corrected and released on 18th April, 2011)