

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4639 of 2000

Shital Jha, Son of Late Ratneshwar Jha, Resident of Refinery Township, P.S.- Begusarai Town, District-Begusarai, at present posted in the Department of Production OMS (R) in Technical Grade IV, Barauni Oil Refinery as Special Yardman.

.... Petitioner.

Versus

1. Indian Oil Corporation Limited through the General Manager, Barauni Oil Refinery, Barauni, District-Begusarai.
2. The Chief Production Manager, Barauni Refineries and Pipelines Division, Barauni Refinery, Begusarai.
3. The Personnel and Administrative Officer, Barauni Oil Refinery, Begusarai.
4. Md. Mustafa, Son of Name not known, Special Yardman (PN) (SG), E/No.64003, Barauni Oil Refinery, Begusarai.

.... Respondents.

Appearance :

For the Petitioner/s : Mr. Kamal Kishore Mishra, Adv.

For the Respondent/s : Mr. K.N.Gupta.

Mr. Satyendra Krishna Prasad.

CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL JUDGMENT

Date: 23-09-2015

V.Nath, J.

Heard the learned counsel for the petitioner.

No body has appeared on behalf of the respondents.

At the outset it is pertinent to mention that the prayer on behalf of the petitioner to delete the name of the respondent no.4- Md. Mustafa was allowed on 09.04.2015 and accordingly the name of respondent no.4-Md.Mustafa has been deleted as respondent from the writ application.

The present writ application has been filed praying for a direction to the respondents to promote the petitioner to Technical Grade –IV and remove the anomaly in his pay.

The necessary facts in short are that the petitioner was appointed as an Yardman in Barauni Oil Refinery district-Begusarai on permanent basis with effect from 13.09.1969. Subsequently after completing the period of probation, his pay scale was fixed in the scale of Rs.505-14-659-16-899 with effect from 15.03.1975. It is the case of the petitioner that a memorandum of settlement was arrived at between management and the workman on 03.07.1990 and in pursuance thereof another memorandum of settlement was arrived at on 22.06.1996 for removing the stagnation in the promotion of workmen and it was provided that if an employee did not secure minimum 55 marks in terms of the prescribed norms for promotion, such an employee would be promoted to the next higher salary grade within the cluster on completion of 7 years service in the existing grade. The grievance of the petitioner is that the respondent no.4-Md.Mustafa who joined on 13.09.1969 alongwith the petitioner had been granted promotion and his basic pay is Rs.4271/- whereas the basic pay of the petitioner is only Rs.4046/-. It is the case of the petitioner that both the petitioner and the respondent no.4 are non-technical workmen at par with each other but the representation of the petitioner has been wrongly rejected by the respondents only on the ground that the promotion of the petitioner was given with effect from 01.07.1995 as per the cluster based promotion policy whereas the

respondent no.4 was given promotion as per the promotion policy in existence at the time of his placement i.e.01.07.1996.

In the counter affidavit the respondents have denied the assertions of the petitioner and have stated that a tripartite settlement was arrived between the Union of the workmen on 03.07.1990 relating to cluster based promotion policy providing criteria for promotion of workmen in order to avoid stagnation and it was also agreed that till coming into force of a new policy, the agreed policy would continue. It has been further case of the respondents that according to the settled policy, the petitioner's service was regularized as production (technical grade IV) on 01.07.1995. It has been further pointed out that the previous policy was subsequently reviewed and another settlement was arrived and became effective from 01.07.1996, but no retrospective effect was given to the same. It has also been pointed out that the petitioner and the respondent no.4 are in different cadres and possess different academic qualification and therefore the respondent no.4 has been given promotion as per the promotion policy at the time of his promotion 01.07.1996.

On behalf of the petitioner, no reply to the averments made in the counter affidavit has been filed controverting the facts mentioned therein.

After careful consideration of the facts of the case and



the submissions on behalf of the petitioner, it is manifest that the basis of the claim of the petitioner is the alleged discrimination between the petitioner and the respondent no.4 and granting the promotion and fixation of the pay scale respectively. However, the fact is also apparent from the records that the petitioner was granted promotion in pursuance to the policy decided in terms of the settlement between the management and the Union of workman on 03.07.1990. This policy was admittedly reviewed by another memorandum of settlement dated 22.06.1996 which came into force from 01.07.1996 with no retrospective effect. Admittedly the petitioner has been granted promotion in pursuance to the cluster based promotion policy on 01.07.1995 which was prevailing at that time whereas the respondent no.4 was granted promotion in pursuance to the reviewed promotion policy which became applicable at the time of his placement on 01.07.1996. Moreover, the fact asserted by the respondents in the counter affidavit that the petitioner and the respondent no.4 belong to different cadres and grades has not been denied by the petitioner and there is also no material before this court to take another view of the matter and that, too, in view of the fact that the name of the respondent no.4 has been deleted from the writ application. In this backdrop, this Court does not find the petitioner to be entitled to the relief as claimed.

The writ application is, accordingly, dismissed.

(V. Nath, J)

