

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.9362 OF 1996

ORDER:

Heard Mr.Hari Haran, learned counsel for the petitioner and Mr. Raghava Charyulu, learned counsel for the 2nd respondent.

The petitioner prays for writ of Certiorari to call for the records leading up to and inclusive of Award in I.D.No.181 of 1993 dated 01.08.1995 on the file of the Industrial Tribunal–cum-Labour Court, Warangal and to quash the Award, as illegal, arbitrary and unconstitutional.

The grievance of petitioner either in the writ petition or before the Industrial Tribunal is against the non-promotion of petitioner by the 2nd respondent to the post of Assistant in the scale of Rs.1290-35-1535-40-1857.

The allegations in brief are as follows:

The petitioner belongs to Scheduled Caste. In the year 1979, the 2nd respondent appointed petitioner as Security Guard and in the year 1980, regular scale of pay of Rs.170-05-250 was paid to petitioner. In the year 1982, the petitioner was absorbed into regular cadre. The petitioner claims to have acquired additional qualifications and with the acquisition of additional qualifications, it is his claim that he is eligible for consideration for promotion as Assistant. The further complaint of petitioner is that persons appointed subsequent to petitioner in the organisation are given promotion. The denial or for that matter non-consideration is made the subject matter of the I.D.

The respondent filed counter and briefly stated that the preliminary objection is against the reference made to the Industrial Tribunal-cum- Labour Court, for the 2nd respondent is a Government of India undertaking and the competent authority is the Government of India, but not the Government of Andhra Pradesh. The dispute, even if one exists, must be espoused by union representative and the industrial dispute at

the instance of petitioner is not maintainable.

The Industrial Tribunal framed the following point for consideration:

“The point for consideration is whether the Industrial dispute under question can be adjudicated by this Court and this Industrial Dispute is maintainable in view of the aforesaid contentions of the management?”

The Industrial Tribunal having regard to the material available on record and after considering the rival submissions held as follows:

“The representation was given by the Union on behalf of the workman on 10-2-1993 by S.A.Jaleel, General Secretary of the Sponge Iron India Ltd. Employees and Contract Workers Union filed before the Asst. Commissioner of Labour, Khammam. Therefore it can be concluded that the workman K.Veeraiah has no “Locus standi” to file the claim statement and pursue the Industrial Dispute for adjudication by this court. This contention of the respondent has got sufficient legal force and the principle is laid down in the above said ruling fortified by the decision reported in A.I.R.1966-Supreme Court-page-182. Hence the I.D. is not maintainable and is liable to be dismissed.”

The Industrial Dispute was raised in the year 1993 and disposed of on 01.08.1995. Having regard to the efflux of time, the learned counsel appearing for the parties have made submissions on the point decided by the Industrial Tribunal and also on the merits of entitlement of petitioner to the post of Assistant with effect from 1992.

I consider it appropriate to examine the claim of petitioner for promotion before the competence of reference by State Government. It is the case of respondent management that a new promotion policy was evolved and implemented with effect from 08.09.1991. According to the new policy, 75% of the posts in the skilled category shall be filled in by promotion from the semi-skilled, the balance 25% shall be filled in by direct recruitment. The eligibility for promotion from semi-skilled to skilled category is that the employee shall possess a minimum service of two years in the feeder category if he is a graduate with typewriting (English) or 5 years experience if employee is having intermediate qualification with typewriting (English) or 7 years, if he is 10th class with typewriting (English). The reason for not promoting the petitioner is that the petitioner did not possess typewriting qualification. The other reasons stated are that in the year 1990, the petitioner did not work for required number of two years in the principal grade and accordingly he was not considered for promotion.

From the above, it is clear that the consideration of petitioner for promotion to the post of Assistant arises under 75% quota meant for semi-skilled. The criteria to be satisfied by an employee, is defined by the policy. The comparison of promotion given to juniors by itself is not a ground to successfully claim either promotion or right to be considered for promotion. In the case on hand, the petitioner failed to place on record that he is eligible when his juniors were promoted and in spite of satisfying the criteria, the petitioner was not promoted. Thus, the writ petition is without merit and the re-examination of entire material available on record or consideration of request of learned counsel for the petitioner to allow and remand the matter for fresh disposal by the Industrial Tribunal is impermissible in law.

The writ petition is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, in the writ petition shall stand closed.

S.V.BHATT,J

Date:05.10.2015

Stp