

(2011) 01 AHC CK 0088
In the Allahabad High Court
Case No : Writ C. No. 25314 of 1996

U.P.S.R.T.C.

APPELLANT

Vs

Sukh Lal and Others

RESPONDENT

Date of Decision : 19-01-2011

Acts Referred:

Citation : (2011) 01 AHC CK 0088

Hon'ble Judges : Sibghat Ullah Khan, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sibghat Ullah Khan, J.—Heard learned Counsel for the Petitioner.

2. In spite of sufficient service no one has appeared on behalf of Respondent No. 1. This writ petition is directed against award dated 27.03.1995 given by Presiding Officer, Labour Court (III) U.P. Kanpur in adjudication case No. 121 of 1990. The matter which was referred to the labour court was as to whether the action of Petitioner employer of not giving the designation and pay scale of Specialist Gr-I to its workman Respondent No. 1 (Semi skilled labour) was just and valid or not. The labour court in substance gave the award in favour of the workman. The labour court even though held that it could not grant promotion directly as it would adversely affect the interest of other deserving workmen (Respondent No. 1 being at serial No. 8 in the seniority list) however it further held that Ram Nath Special Grade-I had retired a year before and Petitioner was performing his duties hence he must be paid the difference of salary of Specialist Grade-I and Semi skilled worker.

3. Through interim order dated 08.08.1996 operation of impugned award was stayed until further order.

4. What the labour court has done is in fact grant of promotion to Specialist Grade I to Respondent No. 1 who was semi skilled labour. The next category is of skilled and thereafter of specialist and the last category is Specialist Grade-I. I

have discussed these aspects in two of my judgments the first of which is Writ Petition No. 4808 of 1990 U.P. State Road Transport Corporation Central Workshop Kanpur v. Nanhey Lal and Ors. Writ Petition No. 4808 of 1990 decided on 03.10.2006 and the other is Writ Petition No. 31870 of 1991 U.P. State Road Transport Corporation Central Workshop Kanpur v. Mohd. Saleem and Ors. Writ Petition No. 31870 of 1991 dated 21.5.2009.

5. Relevant para of judgment of writ petition No. 31870 of 1991 is quoted below:

A mechanic is required to perform different types of jobs. Particular type of job may require different types of operations. Some stages of an operation may be quite simple requiring to be performed even by unskilled labour, other stages may be gradually complicated requiring to be performed by more competent mechanics. Merely because a mechanic of lower grade is also involved in a particular job it does not mean that he is entitled to be automatically promoted to the higher grade mechanic who is also involved in the same type of job.

6. In the said judgment I placed reliance on the Supreme Court authority reported in Air 2009 Supreme Court 3004 "Jagbir Singh v. Haryana State Agriculture Marketing Board and Anr." Wherein it has been held that labour court can not grant promotion. Apart from it learned Counsel for the Petitioner has also placed reliance on a judgment by Hon. D.P. Singh, J. dated 07.11.2005 in U.P.S.R.T.C. V. Akhilashwar Pratap. In the said judgment reliance was placed upon an authority of Supreme Court reported in K. Samanta Ray v. National Insurance Company Ltd. 2004(9) S.C.C. 2861.

7. There was no proper plea or evidence in the instant case that what was exact nature of job of Ram Nath Specialist grade I who had retired and that Petitioner was performing no other duty except the duty of Specialist Grade I. Accordingly, writ petition is allowed impugned award is set aside.