

(2009) 05 AHC CK 0611
In the Allahabad High Court

U.P.State Road Transport Corporation, Central Workshop,
Kanpur through its Deputy General Manager

APPELLANT

Vs

Mohd.Saleem and others

RESPONDENT

Date of Decision : 21-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0611

Hon'ble Judges : S.U.Khan, J

Final Decision : Allowed

Judgement

S.U.Khan,J.

List revised. No one appears for the contesting respondent no.1 the workman.

Heard learned counsel for the petitioner.

This writ petition is directed against award dated 3.1.1991 passed by Presiding Officer, Labour Court (III), U.P., Kanpur in Adjudication case no.54 of 1986. The matter which was referred to the Labour court was as to whether action of petitioner employer of not granting designation and pay scale of Specialist Gr.I to respondent no.1 who was motor mechanic was valid or not. The labour court held that respondent no.1 was performing the duties of Specialist Gr.I and he had also obtained experience during his working as such hence with effect from 1.1.1990 he must be given pay and designation of Specialist Gr.I. Respondent no.1 was working as semi skilled labour. At the relevant time there were five categories of the workmen in the concern of the petitioner which are given below;

1. Specialist Gr.I
2. Specialist
3. Skilled
4. Semiskilled
5. Unskilled

Through the impugned award respondent no.1 has been promoted from fourth category to the top most category by giving three promotions at one go. Even though Labour court in the impugned award held that it was not granting promotion however, infact promotion had been granted. The reasoning given by the Labour court is that respondent no.1 was performing the duties of Specialist Gr.I as after retirement of previous workman Specialist Gr.I no other person had been appointed at his place.

I have discussed this question in relation to the same employer in detail in Civil Misc. Writ Petition No. 4808 of 1990 U.P. State Road Transport Corporation Central Workshop Kanpur Versus Nanhey Lal and others decided on 03.10.2006.

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.

Labour court can not direct the promotion as it is managerial function. By maximum it could direct the employer to consider the case of the workman for promotion. It is not a case of fitment. In this regard reference may be made to U.P. State Sugar and Cane Development Vs. Chine Mil Mazdoor Sangh 2008 AIR SCW 7437. Moreover for promotion the case of all those similar situate employees will have to be taken into account who fall within consideration zone.

Accordingly writ petition is allowed. Impugned award is set aside. However, whatever amount has been received till date as pay scale of Specialist Gr.I by respondent no.1 workman shall not be refundable or adjustable from his future salary.