

PETITIONER:

U.P. STATE OF ROAD TRANSPORT CORPORATION & ANR.

Vs.

RESPONDENT:

U.P. PARIVAHAN NIGAM SHISHUKHS BEROZGAR SANGH & ORS.

DATE OF JUDGMENT 12/01/1995

BENCH:

HANSARIA B.L. (J)

BENCH:

HANSARIA B.L. (J)

KULDIP SINGH (J)

MAJMUDAR S.B. (J)

CITATION:

1995 AIR 1115

1995 SCC (2) 1

JT 1995 (2) 26

1995 SCALE (1)127

ACT:

HEADNOTE:

JUDGMENT:

1. The material resources of this country are limited. Indeed this is so for every country. The resource crunch is, however, acute for us ; and so whenever and wherever public money is invested, it has to be seen that there is a proper utilisation of the same in the sense that the public ultimately gets benefit of the same.

2. This prelude is to highlight the idea which we propose to focus as we proceed to bring home the need to make the investment in apprentice trainees useful to the society , which would be so when the training received by them is put to social use. We are putting this aspect of the matter at the forefront because one of the appellants namely, the U.P.State Road Transport Corporation, (herein after 'the Corporation'), has made a grievance about some directions given by the Allahabad-High

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Court to employ those who had received training in the workshop of the Corporation. The direction has been given mainly at the call of promissory estoppel which is not applicable according to the Corporation. We would agree with this stand of the Corporation; but then, another reason advanced for the direction is also spending of money on imparting the training to the apprentice, which aspect is relevant as already alluded, and which we propose to buttress further.

3. Before doing so, let the objects behind the enactment of Apprentices Act, 1961 (for short, 'the Act ') and its main provisions along with what has been stated in the Apprenticeship Rules 1991 ('the Rules') be noted. The need for the Act was felt as mentioned in the Statement of the Objects and Reasons, to ensure that the training of apprentices streamlined in the back drop of increasing demand for skilled craftsman in the wake of large scale industrial development of the country. The Act, therefore,

proposed to provide for the regulation and control of training of apprentices. The amendment of the Act in 1973 by which training of graduate engineers and diploma holders was introduced was for "improving their employment potential" and to solve the immediate unemployment problem. The amendment in 1986 aimed to provide "on the job training" to the products of vocational streams so that adequate competence and skill required for various occupations are acquired leading to "suitable employment or self-employment opportunities" in organised industries etc.

4. With the aforesaid objects in forefront, which the Act seeks to achieve through its various amendments, let the relevant important provisions be noted. Section 4 requires entering into a contract before an apprentice is admitted to undergo training. By the force of Rule 6(2) of the Rules, the Central Government has even specified a model contract. Section 7 deals with the termination of apprenticeship contract and Rule 8 has laid down the quantum of compensation to be paid in case of termination. Rule 5 even visualises reservation for Scheduled Castes and Scheduled Tribes trainees. A reference to Rule 7 shows that the period of training extends upto four years in some cases; and as per Rule 11 the trade apprentices are required to be paid stipend varying from Rs.290 to Rs. 700 per month. Rule 3 deals with the standard of education necessary for making a person eligible for being engaged as a trade apprentice and a glance of Schedules 1 and 1-A shows that the minimum educational qualification required is matriculation or its equivalent or 10th Class under 10+2 system, which qualification in case of technician is even graduation.

5. From the aforesaid, it is clear that the training imparted is rather exhaustive and elaborate. Sufficient amount of money is also spent on the trainees by way of payment of stipend to them. What is more, there is an obligation on the employers to provide an apprentice with training in his trade in accordance with the provisions of the Act-Schedule V to the Rules containing details of the obligations; and the employer is also required to ensure that a person possessing prescribed qualification is placed in charge of training of the apprentices. The Act seeks to enforce these obligations on the pain of even prosecution, about which mention has been made in Section 30 of the Act.

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6. So the legislature did desire and make adequate provisions to see that the competent persons receive due training to cater the need of increasing demand for skilled craftsman on one hand, and to improve the employment potential of the trainees on the other. Good amount of money, which would be public money in case of public bodies like the Corporation, is also spent on training the apprentices. Further, during the period of training, the apprentices are put under a discipline akin to that of regular employee in as much as Section 17 states that in all matters of conduct and discipline the apprentice shall be governed by the rules and regulations applicable to employees of the corresponding category in the establishment in which the apprentice is undergoing training. Section 16 requires payment to the apprentice in case of injury due to accident arising out of and in the course of training, in accordance with the provision of the Workmen Compensation Act, 1924, modified by the Act. The Rules have dealt with the hours of work (Rule 12) and grant of leave (Rule 13) also.

7. The aforesaid provisions are sufficiently indicative of the fact of the fact that the training imparted is desired to be result-oriented; and the trainees are treated as akin

to employees. Even so Section 22 of the Act states, and it is this provision which has been pressed in to service by the appellants that it shall not be obligatory on the part of the employer to offer any employment to apprentice who has completed the period of his apprenticeship training in this establishment unless there be a condition in the contract to the contrary. The model contract form finding place in Schedule VI of the Rules echoes the voice of section 22(1) In its para 2. The Corporation has placed on record a model contract form entered into between it and the trainees which also states about the aforesaid non-obligation.

8. On the strength of these provisions, the contention advanced is that the High Court could not have directed to give employment to the trainees. Reference to the impugned judgment, however, shows that while giving the direction the Court was conscious of what has been provided in Section 22 of the Act; even so, the direction was given on the basis principally of doctrine of promissory estoppel as already noted. As to this view taken by the High Court, we state that, according to us, the direction in question could not have been given because of this principle, despite what was given out by the Joint General Manager of the Corporation in his Circular letter dated 1977 referred in the judgment.

9. We have said so as reference to that Circular shows that all it has done is to lay down the procedure for the selection of the apprentices, which did not require the apprentices to undergo any written examination for selection and their routing through employment exchange was done away with. Something was said about the age also. No promise of employment can be read in this Circular which is of 21st December, 1977. We would say the same about the Memo of the Directorate of Training and Employment of the State of U.P. dated 21st September, 1977 as falls short of any promise of employment, because what it says is that full efforts should be made to provide the trainees with service- In this Memo, what had been stated in para 2 of the Government of India's letter dated 31.8.1978 had been quoted in SOD

which it was mentioned that the scheme of training had been introduced to promote chances of employment of educated employed persons; and that if employers would not provide employment to the qualified apprentices this would amount to destruction of developed human resources. It is because of this that the Government of India expressed the desire that other things being equal trained apprentices should be given preference in case of employment".

10. For a promise to be enforceable, the same has, however to be clear and unequivocal. We do not read any such promise in the aforesaid three documents and we, therefore, hold that at the call of promissory estoppel, the direction in question could not have been given by the High Court. But then, we are left in no doubt that the Government of India did desire that preference should be given to the trained apprentices and it is because of this that the State Government stated in its letter No.735/38-6-16 (T)-79 dt. 12.11.79 that where such apprentices are available, direct recruitment should not to be made. Indeed, the Government of India in its letter dated 23.3.1983 even desired reservation of 50 per cent vacancies for apprentice trainees.

11. The aforesaid being the position it would not be just and proper to go merely by what has been stated in Section 22(1) of the Act, or for that matter, in the model contract form. What is indeed required is to see that the nation gets the benefit of time, money and energy spent on the

trainees, which would be so when they are cm'ployed in preference to non-trained direct recruits. This would also meet the legitimate expectations of the trainees.

12. In the background of what has been noted above, we state that the following would be kept in mind while dealing with the claim of trainees to get employment after successful of their training:-

(1) Other things being equal, a trained apprentice should be given preference over direct recruits.

(2) For this, a trainee would not be required to get his name sponsored by any employment exchange. The decision of this Court in Union of India. v. Hargopal, AIR 1987 SC 1227, would permit this.

(3) If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the concerned service rule. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given.

(4) The concerned training institute would maintain a list of the persons trained year wise. The persons trained earlier would be treated as senior to the persons trained later. In between the trained apprentices, preference shall be given to those who are senior.

13. In so far as the cases at hand are concerned, we find that the Corporation filed an additional affidavit in C.A. Nos. 4347-4854 of 1990 as desired by the Court on 20th October, 1992 giving position regarding vacancies in the posts of conductors and clerks. If such posts be still vacant, we direct the Corporation to act in accordance with what has been stated above regarding the entitlement of the trainees. We make it clear that while con-

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sidering the cases of the trainees for giving employment in suitable posts, what has been laid down in the Service Regulations of the Corporation shall be followed, except that the trainees would not be required to appear in any written examination, if any provided by the regulations. It is apparent that before considering the cases of the trainees, the requirement of their names being sponsored by the employment exchange would not be insisted upon. In so far as the age requirement is concerned, the same shall be relaxed as indicated above.

14. The appeals/Special leave petitions are disposed of which the aforesaid directions and observations by modifying the impugned judgment accordingly. In the facts and circumstances of the case, we leave the parties to bear their own costs.

I.A. Nos. 11 to 21, 30 of 1991, 39 and 40 of 1992

15. In view of the above judgment, no order need be passed on these applications which stand disposed of

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