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A decade later, a trucker finally wins racial bias case

By Ralph Ranalli, Globe Staff, 4/24/2003

Growing up the son of an African-American contractor on the North Shore, John Bingham says he knew all the stories about Lynn Sand & Stone, how minorities never seemed to get hired at a company based in a city with the fourth largest minority population in the state.

Even so, when the prospect of a good-paying union job with benefits driving a cement truck on the Big Dig arose in the early 1990s, the 38-year-old jumped at the chance to apply. There was no question that he was qualified: He had been working with concrete as his father's apprentice since the age of 16, spent four years as an Army construction engineer, and had nearly 20 years' experience driving trucks as large as 50 tons.

Yet for nine months, as Bingham became increasingly frustrated and disheartened, his application went nowhere, even as less qualified applicants, including a former garbage man and a delivery driver, were hired. Convinced that he was being rejected because of his race, he filed a complaint with the Massachusetts Commission Against Discrimination.

Now, more than 10 years later, an MCAD hearing officer has ruled that Bingham was right, awarding him \$505,000 in lost wages, emotional damages, and interest, finding the company hadn't hired a minority driver for nearly 20 years.

"Back then, I was just trying to find a good job that had benefits," said Bingham, a Lynn resident and crane operator who is now on active duty as a sergeant first class with the Army Reserve in Fort Drum, N.Y. "I thought times had changed. The reality was that, in some ways, they hadn't. Now I'm elated. It's been a long haul."

"In 20 years they had not hired a single nonwhite truck driver," said Bingham's lawyer, Shannon Liss-Riordan of Boston. "This case is almost kind of a throwback. It's the kind of discrimination we saw more back in the 1960s and '70s."

MCAD hearing officer Eugenia M. Guastaferrri ruled in favor of Bingham over Aggregate Industries, the national construction materials giant that bought Lynn Sand & Stone several years ago. The company's attorney, Patricia A. Granger, declined to comment on the case, except to say that it was under appeal.

The ruling included a \$100,000 award for emotional damages. Bingham, who is now 49, said he spent the two years after he applied to Lynn Sand and Gravel bouncing from job to job, earning half what he would have been making and fighting frequent bouts of depression.

"I knew I was qualified for the job," he said. "It's a feeling that I can't really explain. It was terrible . . . it just felt awkward and awful."

Things got better in 1995, he said, when he finally found work on the Big Dig as a crane operator. Since then, he's operated light and heavy cranes for a succession of companies, most recently J.F. White Construction, where he said, "everything goes by ability."

Nonetheless, Bingham pursued his discrimination claim, even as it languished due to the MCAD's backlog and what his lawyer called delaying tactics by the other side.

The case finally came up for a hearing last year. In her ruling, Guastaferrri rejected the

company's argument that Bingham wasn't hired because, while he had experience with both concrete and heavy trucks, he had never actually operated a concrete mixer.

Guastaferrri found that while the company had hired numerous white drivers with such experience, they also hired several who didn't have it and were far less experienced than Bingham. Company officials also admitted that, compared with drivers of other heavy trucks, there were no special skills required of a concrete truck driver that couldn't be learned easily in a day or two of training.

Guastaferrri also found that the company's practice of using word-of-mouth instead of advertising job openings was "strong circumstantial evidence of discrimination."

Bingham's lawyer said that the company's appeal of the ruling may drag the case out further. But she said he has already shown considerable patience and staying power.

"He's a very solid person," Liss-Riordan said. "He hung in there."

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