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MEMOIR

The following memoir is not the typical law journal fare. It neither espouses nor condemns a legal position. Instead, this is a first-hand account of experience in a world that many in the legal profession have never glimpsed. Although this piece provides commentary on employment law issues facing factory workers, it also attempts to provide insight into the working conditions of many American women.

MY CAREER AS A CHOCOLATIER

Ann Bartow*

I’m packing candy for six dollars an hour, and I’m not happy about it. The job is only temporary, starting in September and ending early in the spring, when the Easter chocolate is headed for distribution outlets. It is only the third week in September now, so I’ve got plenty of candy packing ahead of me, unless I quit suddenly, which I feel like doing at least a couple of times a day.

The best part of the job is that I can wear jeans and sweat pants, anything at all under my candy-packing apron as long as my clothes are easy to move in. The down sides to the position are the low pay, the back breaking labor, and the horrible hairnet that I have to wear. It is amazing what a great appearance leveler a hairnet is. No one looks good in a hairnet, not with all the chiseled features or pancake makeup in the world. Everyone in the factory looks like stereotypical middle-aged cafeteria workers, including the men, who have to wear shapeless aprons and lumpy, elastic rimmed hairnets, just like us. If they didn’t, I’d file an employment discrimination suit against the candy company so fast it would make everybody’s hair netted head spin.

Working in a factory, or at least in this particular factory, is very degrading. The assaults on my dignity began right when I applied for the job. The company didn’t interview me itself, because it has a temporary agency do most of its hiring and firing. I walked into the temporary agency and was made to fill out a lengthy, intrusive application.

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When I had that completed, I had to take a test. The first section of the test evaluated my mathematical abilities, and some of the questions were very difficult. Along with simple addition and subtraction, which a worker would need to know if she worked with money and had to make change, some of the questions involved fractions and percentages, and long division, with numbers of three and four digits being divided into numbers of six or seven digits. I noticed that some of the numbers didn’t seem to divide evenly, giving me weird remainders, and I began to get nervous. I also wondered why my ability to do long division by hand was being tested. Face it, you can buy a calculator for two or three dollars which will do complex arithmetic in an instant. If some company was going to hire me to do long division by hand, it had some really obvious efficiency problems. I was desperately hoping there wasn’t going to be a square root problem, because I had no frigging idea how to figure out one of those any more.

The next two sections of the examination tested my ability to alphabetize, and my aptitude for spotting typographical errors. When I finally finished, I was required to take a urine test to prove I was drug free, and then submit to an interview. At that point I was told that the only available jobs were in a candy factory, and that I could have a position only if I could prove that I was an employable resident of the United States. That was tricky, because the only identification I had with me at the time was a driver’s license and a library card. Federal law requires something else, like a passport, or a social security card in addition to a driver’s license. However, probably because I was white and spoke without an accent, this little technicality was illegally waived.

My first day of work was long and agonizing. I was placed in an enormous, noisy room and made to stand on a concrete floor and put lids on boxes for an hour and fifteen minutes. Then a whistle blew and I had to run up to another end of the assembly line to tie ribbons around candy boxes for an hour and fifteen minutes. At the next whistle, it was break time as soon as the line shut down, but not a millisecond sooner. Everyone working on the same assembly line as me ran for the employee lounge, and sat down to have a soda, cigarette or cup of coffee. Five minutes later, everyone ran for the bathrooms, to empty their kidneys and adjust their hairnets. Then everyone sprinted for the assembly line, because if they were not in their assigned positions when the line started up again they were marked late. This meant that our federally required fifteen minute break was de facto reduced to ten minutes, with the other five minutes relegated to waiting for the line to stop or start up again, and travel time to and from the employee lounge and/or bathroom.

After the break I was back on lids for an hour or so, then back tying ribbons for an hour and fifteen minutes. We had a lunch break when the line shut down at 11:30 a.m. By that time I had a ferocious headache and my back, neck and feet were sore and tired. We had to
be back at our positions before the line started up again at noon. After lunch I did lids for an hour, tied ribbons for an hour, went through the break routine once more, did a final hour on lids, and punched out at 3:00 o'clock.

I was so tired that night that I went to bed at 6:00 p.m. and slept straight through until my alarm went off at 5:15 a.m. My second day on the job, instead of lids and ribbons I alternated between putting truffles in a particular space in the candy trays as they flew by on a conveyor belt and placing pads on top of filled boxes of candy before they went into the shrink wrap machine. Placing truffles took a lot of concentration and the coordinated use of both hands because the belt moved fast. Doing pads was pretty simple except that sometimes the pads stuck together. A co-worker showed me that if you shuffled a handful of pads, as if they were a deck of cards, before attempting to place them, they were easier to manage. In between helping me and a couple of other trainees, the co-worker grumbled about "them Puerto Ricans," referring to two young Puerto Rican men whom many of the employees seemed to despise. "Why don't they get a man's job?" she complained.

Within two weeks, I had performed most of the tasks on the candy packing line. I had put plastic trays in empty boxes. I had put candy in trays, pads on candy, and company brochures and nutritional information inserts on top of the shrink wrap that a machine stretched over the pads. I had put the candy box lids on over the brochures and inserts, and once lidded, I had tied ribbons around the boxes, and tied bells or other festive paraphernalia onto the ribbons. I had also packed boxes of candy into cartons, and stacked cartons onto pallets. I was astounded that all of these functions were performed by human hands, as I had long believed that robots did these sorts of tasks in a modern factory.

I haven't yet been given a chance to work on the candy making lines, where nuts and cherries are dropped into unfinished chocolates by hand, the air is warm and steaming, and the machines rumble so loudly that the wearing of ear plugs is required. These jobs are considered the most prestigious, and are dominated by permanent employees with seniority rather than lowly temps like myself.

Once the candy is made it is packed and sealed into large cardboard cartons which are stacked, moved, and then re-opened on the packing lines so that the chocolates can be placed into individual candy box assortments. Why the chocolates don't just get packaged for retail directly after they are made has never been explained to me, and I'm afraid to ask for fear of being labeled "ambitious," a highly undesirable and suspicion-raising appellation on the packing lines.

Virtually all of the candy packers are women, and the majority is comprised of white women. By my second day I realized that the factory is seething with racial tensions. Being a temporary worker means no benefits, lower pay, and no opportunity for advancement. The
permanent workers don’t exactly receive generous compensation packages, but they love to lord their job security and paid vacations over the temps. They are the last to be laid off every spring, at the end of the candy packing season. Permanent workers are easily identified by their uniforms, which are lighter in color, come with pants, and have the permanent employees’ names sewn over the left breast pocket. The common wisdom is that only racial minorities, particularly Latinos, are being hired as permanent workers, and a visual inspection of the faces of those wearing the special uniforms seems to bear this out. The only other permanent workers are women who have “been there since day one,” and many of them are line supervisors who get to wear special maroon smocks and yell at everybody anytime they want.

The idea that permanent slots are reserved for Latinos doesn’t bother me because I figure that the chocolate company is simply attempting to meet affirmative action goals. Perhaps they had spent so many years hiring only white workers that they need to get as many minorities on board as possible to diversify their work force. To someone like me, a short timer who will be moving on as soon as possible, this seems laudable and appropriate. To some of my fellow candy packers, however, who have been temporary workers for seven years or longer, the system seems unfair and stacked against them. They are doing the same job as new permanent employees who were hired off the street with no experience, yet at a higher wage, and with (albeit minimal) benefits and improved job security. Most are bitter, and many are flagrant racists, blaming minority workers for the policies of white male corporate executives. They go out of their way to sabotage the efforts of newly hired permanent employees, undermining them in front of supervisors and occasionally terrifying them face to face. When learning that one Mexican woman had seven children, several temps turned to her in horror, and one said, “You people can’t control yourselves, can you?” Another day, several women opined that Asian people smelled funny and weren’t as smart or hard working as they made themselves out to be, clearly within the hearing of several Asian employees, who kept their eyes glued to the line in front of them. One particularly obnoxious woman likes to bait the Latino workers and ask them in a cartoonish accent, “What’s the matter? Jew think I’m a beach?”

Though united in racism, the white women have little else in common and sometimes are not very nice to each other. One frequent target of this meanness is an exceedingly old woman with well coiffed hair and designer glasses who is undoubtedly working there because she desperately needs the money. It is not the type of job retirees take to feel needed, or to help them pass the time. Supervisors constantly make this senior citizen prove to them that she can lift cases of chocolates, and refer to her among themselves as “the little old lady from Pasadena.” Some of the women temps watch her strug-
gle to keep up with the demands of the line from a distance, make faces and ask "What is she doing here?" as if the chocolate factory were a giant sorority, and the elderly woman was crashing a pledge party. One of them might snort something like "If she's here looking for a man, she's come to the wrong place," and mass chuckling ensues.

However, despite the persistent and remarkable ugliness of some of my co-workers, my unscientifically validated theory is that most of the temporary workers are decent people who want to do their job, go home to their families, and collect a paycheck every Friday. The first time I had to place plastic trays in empty boxes the line was moving very fast, the boxes began clumping together, and I grew panicked as trayless boxes sailed past me and up the line, to the epithet grumbling consternation of the candy placers. The woman beside me could see I was being affected by the glaring and the swearing, and she admonished me to relax.

"People with nerves don't last too long around here," she said placidly. "You got to leave your nerves at the door."

"And if the stress of the line don't get you, the other workers will," the woman beside her chimed in, cackling.

These women, the majority of my co-workers, really, are basically pleasant and helpful, passing the time discussing the plots of soap operas and made for television movies, or talking matter-of-factly about their families and friends.

No one is allowed to leave their place at the assembly line for any reason. If you have to go to the bathroom, you have to get on the bathroom list and wait for the floater to take your position while you are gone. The floater is a white woman, a permanent employee who has worked for the company for fifteen years. The amount of time you have to wait until she relieves you so that you can go to the bathroom and relieve yourself seems to be directly related to how much she likes you. If she doesn't like you for whatever reason, like the color of your skin, the wait can be lengthy. I think the minority women simply swear off liquids so that they can hold out until a break.

The floater is a malicious gossip, and complains about workers who have abused their bathroom privileges by being gone for ten minutes and then returning to the line reeking of cigarette smoke. I've seen white women sneak off to the bathroom without consequence, but the first time a visibly pregnant Mexican woman did it, three temps reported her to the floater, who in turn went to the supervisor, who filed a disciplinary report and humiliated the woman in front of everyone after she sprinted back to her position. The errant worker had been one of about twenty people simultaneously tying ribbon, and didn't see the harm in a brief absence to answer nature's urgent call. Two more "write ups" and she will lose her permanent job, freeing it up for another unfortunate unemployed minority woman.
The more experienced workers are allowed to sit on chairs while performing certain tasks. This is a little easier on their legs, but not too great for their backs, because being seated requires them to hunch over the line. If they make too many "misses," they lose their chairs as a preliminary disciplinary measure. I only sit when I'm tying, because then your "misses" aren't as obvious, unless you are the person tying at the end of the line. The end person is responsible for intercepting untied boxes before they reach packing, which is a really annoying task when the line is moving quickly. If an untied box gets by you despite your best efforts and you are white, the packers will just throw it toward you. If you are a minority and this happens, expect to be screamed at.

The good jobs at the chocolate factory are all held by white men who run around in white lab coats and hard hats, carrying clip boards. Sometimes they stand over us with stop watches to see how fast we tie ribbons or pack boxes, then walk away without a word. When they see us in the halls or cafeteria they look through us, as though our candy packing aprons make us invisible. We aren't allowed to wear perfume, jewelry or hair accessories out of fear that we might contaminate the chocolate, so with hairnets in place our only identifying characteristics are eye and skin color. I have mistakenly been given the wrong paycheck more than once.

The walls of the factory are decorated with posters that urge us to "Think Safety!" or "Lift With Your Legs, Not With Your Back!" or "Eat Healthy, Nutritious Foods at Every Meal!" This last admonishment is impossible to comply with unless you brown bag from home. The factory cafeteria features hot dogs, deep fried fish patties, and a salad bar consisting of hard boiled eggs, pasta mixtures swimming in mayonnaise or oil, shredded cheese, croutons, salad dressing, and pudding. There are also vending machines featuring potato chips, snack crackers, soda, and, unbelievably enough, chocolate bars.

Although some of my candy packing cohorts are repulsive from an interpersonal perspective, I have not observed a single slacker. Everyone works very hard, punches out, then shows up on time the next morning. From talking with other employees I learned that most work steadily from sometime in the summer until sometime in the spring, when they are laid off for a few months, and collect unemployment compensation until they are called back. They repeat this on-again off-again cycle for years on end. The company saves itself a lot of money in wages with the layoffs every spring, a slow time for chocolate, and then is able to bring back the same hardworking, experienced people when it is most economically desirable. Workers are able to wait around for a call back, rather than looking for another job, because they can live off of unemployment during the down time, pursuing hobbies or working elsewhere off the books. It is quite a scheme. I continue to believe that unemployment insurance is an important safety net, but it did occur to me that if it were not available,
temping only three seasons out of each year would not be economically feasible for many of the women, who would therefore look for full time jobs. The chocolate factory would then be forced to expand its platoon of permanent workers, which would bring benefits, more security and better pay to those who were hired. It also annoys me that the chocolate factory has found a way to manipulate the unemployment compensation system so that the company benefits more than its workers.

The cavernous room housing the candy packing lines is kept quite cool to preserve the integrity of the candy. As a result, most of the workers have continually active sinuses. The people placing the candy in the plastic trays must wear latex gloves, which they occasionally wipe their noses with, and then continue packing chocolates. The line moves too fast to allow time for the use of facial tissue. Sometimes chocolates fall onto the conveyor belt, which is sticky and dirty. Usually they are simply picked up and packed as if nothing happened. If a supervisor sees them fall, they are placed in plastic bags that are sold to employees at a discount in the company store. If candy is dropped on the filthy floor, it goes into a “pig bucket” and is sold to local farmers whose lucky hogs get to consume chocolates that otherwise sell for about twenty-eight dollars a pound.

Workers who touch the plastic trays that the chocolate goes in, or the pads that go over the chocolate, are not required to wear gloves, nor is anyone else on the candy packing line. I was surprised about this, and was told that the gloves go on only when the inspectors make visits, which are apparently always known about in advance. On the whole, the factory is probably a lot dirtier than the designer chocolate buying public thinks.

The work is strenuous, and by the end of the day my fingers and wrists are stiff and sore. I down over-the-counter pain relievers before, during and after work, and sometimes the smell of chocolate that fills the factory makes me nauseous. If I knew I would have to work at the candy factory the rest of my life, I would probably develop a substance abuse problem in short order. Many of my co-workers seem to have drinking problems, despite a cheerful work place poster advising us to “Fight Alcoholism!” In the morning they can barely open their eyes, and they spend a lot of time swigging at thermoses from home. By the end of the shift they are loud and giddy, laughing booze breath in each others’ faces.

There is an employee newsletter, issued by the multinational corporation that owns this factory, and a recent issue had advice on how to reduce back strain. The newsletter recommended doing isometric exercises while you are seated, changing positions, and taking frequent breaks to stretch out back muscles. Following these recommendations on the candy packing line would get you fired, but the advice is obviously only aimed at workers with desk jobs. Not too many of my
colleagues even bothered to pick up their complimentary copies of the newsletter.

It is very difficult to live on six dollars an hour. I could earn a little bit more if I transferred to second shift, 3:30 p.m. until 11:30 p.m., or a little bit more still if I was willing to toil through third shift, midnight until 6:00 a.m., but I like having my late afternoons free, allowing me to continue my search for another job. Getting to work by 6:30 in the morning isn’t as difficult as I first thought it would be. It takes me only twenty minutes to shower and throw on some comfortable clothes, and twenty minutes more to bicycle to work. If I’m up by 5:30 a.m., I have ten extra minutes to eat some toast and look at the newspaper.

I used to get up at 6:30 a.m. to get to work by 9:00 o’clock, back when I had an office job. I had to exercise, shower, blow dry my hair, struggle into panty hose, which are basically hairnets for your legs, dress, put on make up and jewelry, drive to the train station, and then ride the train into the station nearest the office. Now, between bicycling for transportation and candy packing for money, I don’t need any extra workday exercise, and riding a bicycle in the sunshine is nature’s own blow dryer. Plus, looking messy and ill-dressed helps preserve my anonymity here in the factory, where I don’t want anyone to know that I have an education.