
(2012) 08 MP CK 0125
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 48 of 2007

A.K.Pandey

APPELLANT

Vs

Director Gen

RESPONDENT

Date of Decision : 21-08-2012

Acts Referred:

Citation : (2012) 08 MP CK 0125

Hon'ble Judges : Vimla Jain, J; Krishn Kumar Lahoti, J

Bench : Division Bench

Advocate : Sharad Verma with Mr. A. Pandey, for the Appellant; S.S. Sengar, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal is directed against an order dated 28.10.2005 in writ petition M.P. No. 3098/1992 by which a writ petition preferred by the petitioner seeking his promotion was dismissed. Learned counsel for the appellant submitted that two juniors to the appellant namely Arvind Kumar and S.K. Sinha were promoted but the learned Single Judge without considering this aspect has dismissed the petition.

2. That before the D.P.C., the case of the appellant was not properly placed, resulting adverse decision in the DPC, against the appellant. It was submitted that the learned Single Judge erred in dismissing the petition.

3. The learned counsel appearing for the respondents supported the order of the Single Bench and submitted that the case of the appellant was considered by various DPCs continuously since 1989 upto 1991 but he was found unfit. However, in the DPC held on 20-21.5.1992, the appellant was found fit and was promoted as Inspector. It was further submitted that until and unless there is violation of some Rules or malafides are alleged against the DPC or there is non-consideration of material by the DPC, the proceedings of the DPC cannot be interferred.

4. We have perused the record.

5. The factual position in the case is that the appellant was appointed as Sub Inspector in the year 1984. He had claimed his promotion on the post of Inspector in the year 1989 itself as he had become eligible for promotion. As per the appellant, the case of the appellant was not properly considered by the DPC and he was not promoted on dated 1.9.1989, when he had become due for consideration for promotion. On the aforesaid ground, the proceedings of the DPC held in the year 1989 to 1991 were challenged before the Single Bench. The learned Single Judge has considered the case of the appellant and found that the case of the appellant was considered for the first time in the DPC held on 23-27.10.1989 in which he was found "not yet fit due to poor service record". Thereafter the case of the appellant was considered in the year 1990 by the DPC held on 30-31.10.1990 and 5.11.1990 in which again the DPC found "not yet fit for promotion".

6. In the DPC held on 10-11.9.1991, the DPC again found him "not fit for promotion". Thereafter, in the DPC held on 21-22.5.1992 he was found fit for promotion and he was promoted. These proceedings of the DPC were under challenge in the petition.

7. We have perused the file and found that continuously in the year 1989, 1990 and 1991 the case of the appellant was considered by different DPCs and he was not found fit for promotion. Thereafter, his case was considered in the DPC held in the year 1992 and he was found fit and was promoted. No allegations are made against the members of the DPC or that some material record was not placed before the DPC or the DPC had considered the case of the appellant on wrong premises, or there is some error, in absence of which the DPC proceedings cannot be interfered. See *M.V. Thimmaiah and Others Vs. Union Public Service Commission and Others*, and *Union of India (UOI) and Another Vs. A.K. Narula*, . In the writ jurisdiction we cannot sit on the decision of the DPC like appellate authority but can examine the proceedings of DPC in limited perspective. In the absence of the aforesaid allegations, if the case of the appellant was considered by different DPCs for the years 1989, 1990 and 1991 and the appellant was not found fit, no interference is called for. Apart from this, the juniors against whom the appellant had claimed promotion are Arvind Kumar and S.K. Sinha. These persons were not party before the writ court in the absence of which no case can be examined against co-employees who were earlier promoted. If there was some grievance against these two persons, the appellant ought to have impleaded these persons as party in the case. This appeal is found without any merit and is dismissed with no order as to cost.