
(1979) 02 MP CK 0009

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 841 of 1977

K.R. Sahu

APPELLANT

Vs

State Industrial Court, Indore and others

RESPONDENT

Date of Decision : 13-02-1979

Acts Referred:

Madhya Pradesh Industrial Relations Act, 1960 — Section 31(3)

Citation : (1979) MPLJ 748

Hon'ble Judges : G.P. Singh, C.J;B.C. Verma, J

Bench : Division Bench

Advocate : Gulab Gupta, for the Appellant; A.P. Tare, for the Respondent

Final Decision : Allowed

Judgement

B.C. Verma, J.

The petitioner was appointed as Electrician in the construction work of the Bhilai Steel Plant on work-charge establishment in the scale of Rs. 60-3-90 with effect from 30.11.1957. Later, by an order passed by the General Manager of the Bhilai Steel Plant (respondent No. 3), the petitioner was absorbed as an Electrician in the regular establishment with effect from 6-2-1959 and was posted to work in the Distribution Network. The determination of petitioner's scale of pay and designation was, however, deferred. The petitioner actually started working in the regular establishment from 6-2-19 9. By an order (Annexure-A), dated 30-6-1960, passed by respondent No. 3, the petitioner was designated as Electrician and was posted as Switch Board Operator in the scale of Rs. 80-5-120. By this order, this scale of pay was made admissible to the petitioner with effect from 1-7-1960. Shri V. N. Joshi (respondent No. 4) was also initially recruited on the work-charge establishment and was later absorbed as Electrician in the regular establishment with effect from 25 11-1959. In the revised seniority list of the Distribution Network Department published in March 1964, Shri Joshi, respondent No. 4, is shown at serial No. 5 and the petitioner is shown junior to him at serial No. 13.

The petitioner claimed that he was entitled to draw his salary in the scale of Rs. 80-5-120 from 6-2-1959 and was accordingly entitled to be placed above respondent No. 4 in the seniority list of Electricians. He approached the General Manager (respondent No. 3) for redress of his grievances and on failure to arrive at any agreement filed an application u/s 31 (3) of the M. P. Industrial Relations Act, 1960, before the Labour Court for the above relief. That application was dismissed by the Labour Court and a revision filed by the petitioner before the Industrial Court also met with the same fate. The petitioner then approached this Court against the orders of the Labour Court and the Industrial Court. this Court in Miscellaneous Petition No. 384 of 1971, decided on 19-2-1972, quashed the order of the Industrial Court and remanded the case to that Court for reconsidering the matter according to law. On remand from the High Court, the Industrial Court by order, dated 23 11-1972, again dismissed the petitioner's revision holding that the petitioner could not justify his claim either for payment of salary from 6.2.1959 in the scale of Rs. 80-5-120 or for his seniority. The petitioner has again come to this Court against the orders of the Industrial Court and the Labour Court.

Before us, Learned Counsel for the petitioner reiterated his two grievances made before the Labour Court and the Industrial Court, namely, that he was entitled to draw his salary in the grade of Rs. 80-5-120 from 6-2-1959 and was also entitled to count his seniority from 6-2-1959 in the department of Distribution Network as Electrician.

The return filed on behalf of respondent No. 3 shows that the petitioner was appointed as Electrician on 6.2.1959 although his pay scale and designation were to be fixed later and this was done by order, dated 30.6.1960 (Annexure-A). This order is silent as to how the petitioner is to be treated between the period from 6-2-1959 to 30-6-1960. From the averments in the return, it is clear that the petitioner is holding the post of Electrician from 6.2.1959. We fail to understand why he should not be held entitled to the grade of Rs. 80.5.120, declared later as admissible to him, from the date of his appointment, that is from 6.2.1959. The order (Annexure-A) is absolutely silent on this point. Although the order says that the pay scale is sanctioned to the petitioner with effect from 1-7-1960, it does not take into account the period between 6.2.1959 and 30.6.1960. We have no hesitation in holding that the petitioner is entitled to the scale of Rs. 80-5-120 from 6-2-1959 and not from 1-7-1960 only. This necessarily follows that the petitioner shall reckon his seniority in the grade of Electricians from 6.2.1959 from which date he was absorbed in that grade. It is clear from the averments in paragraph 3 of the return of respondent No. 3 where it is stated:

According to the principles of seniority adopted by the management, an employee gets seniority from the date of drawing pay on a particular grade on joining the said grade.

We, therefore, allow the petition and direct that the petitioner shall be entitled to draw his salary in the scale of Rs. 80-5-120 from 6-2-1959 and not from

1-7-1960 as stated in the order of respondent No. 3, dated 30-6-1960 (Annexure-A). We further direct that the seniority of the petitioner as Electrician shall be fixed as indicated above.

The petition is allowed. The orders of the Labour Court, dated 12-2-1970, and Industrial Court, dated 23-11-1972, are quashed. We direct that the petitioner shall draw his salary in the scale of Rs. 80-5-120 from 6-2-1959 when he was absorbed in the Department of Distribution Network as Electrician in the regular line and he shall further be entitled to reckon his seniority among the Electricians as if appointed to that post on 6-2-1959. There shall be no order as to costs. The security deposit be refunded to the petitioner.