
(2003) 07 JH CK 0120
In the Jharkhand High Court
Case No : L.P.A. No. 108 of 2001

Manoranjan Trivedi

APPELLANT

Vs

MECON Limited and Others

RESPONDENT

Date of Decision : 07-07-2003

Acts Referred:

Citation : (2004) 101 FLR 112 : (2004) 1 LLJ 791 : (2004) 2 JCR 403

Hon'ble Judges : Gurusharan Sharma, J; Amareshwar Sahay, J

Bench : Division Bench

Advocate : V. Shivnath and Anita Sinha, for the Appellant; K. Bahadur, Amitabh and Nitu Sinha, for the Respondent

Final Decision : Dismissed

Judgement

1. The appellant filed CWJC No. 2727 of 1999 (R) in this Court for a direction to the respondents to consider his case for promotion to the post of Deputy General Manager (E-7 grade) with effect from the date the juniors to him were promoted (April 1, 1995) and for granting the consequential benefits. It was further prayed that his case may also be considered for giving promotion to the E-8 grade of General Manager with notional seniority in E~ 7 grade, effective from April 1, 1995.
2. The appellant was initially appointed as a Design Engineer (E- 2 grade) under the Central Engineering and Design Bureau (in short "CEDB") of Hindustan Steel Limited, Ranchi, on November 3, 1972. Subsequently, CEDB was taken over by MECON Limited, the respondent No. 1 with effect from April 1, 1973.
3. On February 16, 1978 while working with the respondent No. 1, the appellant was promoted to the post of Senior Design Engineer, (E-3 grade) in blast furnace section. With effect from May 1, 1978, MECON was separated from the Steel Authority of India Limited (SAIL), under the provisions of Public Sector Iron and Steel Companies (Re-structuring and Miscellaneous Provisions) Act, 1978.
4. In the year 1982, the appellant claimed to have become eligible for being

considered for promotion to the post of Assistant Engineering Manager (E-4 grade), but his case was not considered, although by then he had already acquired experience of over four years in E-3 grade. Subsequently, on May 28, 1984 his case was considered and he was promoted as Specialist/AEM (E-4 grade) on June 28, 1984 and joined under the Chief Contract Manager.

5. On June 30, 1990, the appellant was promoted from the post of Specialist grade E-4 to the post of Senior Specialist (E-5 grade). The appellant's case was that in the year 1991 several junior Executives were promoted to E-6 grade, but his case was not considered. Again in June 1992 and May 1993 other junior Executives were given promotion to E-6 grade, but he was not considered. However, on July 11, 1994 he was promoted to E-6 grade, but was not given notional seniority with retrospective effect from April 1, 1992.

6. Now for being considered for promotion in E-7 grade, the appellant was required to complete minimum three years" of service and accordingly he became eligible only in the year 1997 to be considered for promotion to E-7 grade.

7. The Departmental Promotion Committee (hereinafter to be referred to as "the DPC") constituted for such promotion included the Director (Technical), Director (Engineering), Director (Commerce), Director (Personnel), the General Manager (P & EE) and the General Manager (P & A). In the DPC of 1998 also there were four Directors, namely, the Director (Technical), Director (Engineering), the Director (Commerce) and the Director (P) and three General Managers -the General Manager (CC & P), the General Manager (RM) and the General Manager (P & A). Again in the year 1999 DPC, besides the aforesaid four Directors, the General Manager (P & A) was included as its member and in the 2000 DPC also the same set of senior officers were made its members.

8. The 1997, 1998 and 1999 DPCs did not recommend the case of appellant for promotion as he had not achieved the qualifying marks to grade E-7.

9. It is relevant to state that the criteria adopted by the Board for promotion from E-6 to E-7 was based on seniority-cum-merit. The appellant was promoted on February 7, 2000 to E-7 grade during the pendency of the writ application in this Court and joined. The aforesaid criteria for promotion was duly approved by the Board of Directors of MECON.

10. We are of the view that when the appellant was not found suitable for promotion earlier, except that he was promoted to E-7 grade in the year 2000, there was no question of granting him any notional seniority from earlier period, i.e. with effect from April 1, 1995.

11. Mr. V. Shivnath, the counsel for the appellant placed reliance on the decision of the Apex Court in Union of India and another Vs. U.D. Dwivedi, , wherein on account of inclusion of one Mr. Sampat as Chairman of the DPC, who was not eligible, it was held that since constitution of the Committee itself was illegal, its

recommendations were also not valid.

12. In our opinion, the ratio of the said decision is not applicable in the present case as here no case has been made out that out of the aforesaid five, who were the members of the DPC in the years 1997 to 2000 any of them was not eligible to become a member thereof.

13. We find no force in the submission of the appellant's counsel that constitution of the DPC being not in accordance with the Rules of HSL, it was not valid Committee. Further no case has been made out that any prejudice was caused to the appellant.

14. The learned single Judge, therefore, rightly came to the conclusion that the writ petitioner's case was considered by the DPC in which three of the Directors were the members and on the basis of CCR/appraisal reports and criteria for allocation of point for experience qualification etc. he did not obtain sufficient ground for coming within the zone of consideration and was, therefore, not promoted. Though the writ petitioner had not completed three successive years 1997, 1998 and 1999, but when his case was considered by the DPC in the year 2000, though he was not successful in normal course as a special case, the committee recommended his case for promotion from E-6 to E-7 grade.

15. We find no infirmity in the recommendation of the Promotion Committee as well as in the impugned order of the learned single Judge. There is no merit in this Appeal. It is dismissed.