

(2006) 03 MP CK 0127

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 872 of 1994

Murli Dhar Singh and G.P. Mishra

APPELLANT

Vs

Madhya Pradesh Nagrik Apurti Nigam Ltd. and Others

RESPONDENT

Date of Decision : 06-03-2006

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2006) 03 MP CK 0127

Hon'ble Judges : A.K. Shrivastava, J

Bench : Single Bench

Advocate : None, for the Appellant; Rajneesh Gupta, for Respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Shrivastava, J.—By this petition under Articles 226 and 227 of the Constitution of India, the petitioners are seeking following reliefs:

a) That, this Hon''ble Court may kindly be pleased to issue a writ in the nature of Mandamus and Certiorari to Respondent No. 1 to consider the petitioners for promotion to the post of Senior Assistant from a day earlier than the date of promotion given to Respondents No. 3, 4 and 5 with consequential benefits including back wages, seniority and further promotions to the post of Assistant Manager from a date earlier than the date of promotion given to the respondents No. 3 to 5 and other related benefits.

b) That, the respondent No. 1 may kindly be directed to pay the cost of petition.

c) Any other Writ/Writs, Order/Orders, Direction/directions may also kindly be issued looking to the facts and circumstances of the case.

2. The relief of the petitioners is apparent and they are seeking promotion to the post of Senior Assistant from a day earlier than the date of promotion given to respondents 3 to 5. These respondents were promoted vide order Annexure-B

dated 7.6.88, but the petitioners have neither challenged their promotion order nor filed any petition praying therein that on account of seniority their case for promotion may be considered. (SIC)

3. It has been contended by Shri Gupta, learned Counsel appearing for the respondents 1 and 2 that this writ petition was filed on 11.3.1994 and if that is the position, the action of respondents 1 and 2 taken on 7.6.88 cannot be now challenged after lapse of almost six years. In support of his contention, learned Counsel has placed reliance on the decision of the Supreme Court in the case of P.S. Sadasivaswamy Vs. State of Tamil Nadu, . He has also placed reliance on another decision of the Supreme, Court in the case of B.S. Bajwa and Another Vs. State of Punjab and Others, .

4. Considered the arguments.

5. It be seen that respondents 3 to 5 were promoted long back on 7.6.88 on the post of Senior Assistant and the petitioners did not challenge their promotion order. The petitioners were also promoted on ad-hoc basis w.e.f. 12.8.1988 and they were regularly promoted vide order dated 22.1.1990 (Annexure-D). The benefit of seniority was given to the petitioners w.e.f. 22.1.1990. Since the petitioners never challenged the action of respondents 1 and 2 promoting respondents 3 to 5 vide order Annexure-B dated 7.6.1988 for a considerable long period of six years, I am of the view that petitioners are not entitled for any relief. In that regard decisions in P.S. Sadasivaswamy (supra) and B.S. Bajwa (supra) may be taken into consideration.

6. Petitioners also submitted representations Annexure-G dated 4.6.93 and also Annexure-F dated 8.6.93. However, the representations were rejected on 27.9.1993 but it will not dilute the case of respondents 3 to 5 or would strengthen the case of the petitioners for the simple reason that after five years of the promotion order of respondents 3 to 5 they submitted the representations.

7. For the reasons stated hereinabove, I do not find any substance in this petition. The same is hereby dismissed with no order as to costs.