
(2008) 06 CHH CK 0001
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 1077 of 2005

Murlidhar Gautam

APPELLANT

Vs

State of M.P. (now Chhattisgarh) and Others

RESPONDENT

Date of Decision : 23-06-2008

Acts Referred:

Citation : (2009) 2 MPJR 29

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Satish K. Agnihotri, J.—Initially, this petition was filed as original application No. 777 of 1995 in the Madhya Pradesh State Administrative Tribunal, Jabalpur. After dissolution of the Tribunal, this petition was received on transfer. In this Court, this petition has been registered as Writ Petition (S) No. 1077 of 2005.

2. The instant petition impugns the order dated 09.12.1994 (Annexure A/6) whereby the promotion of the petitioner to the post of Deputy District Extension and Media Officer, vide order dated 25.03.1989 (Annexure A/2) was cancelled.

3. The brief facts, in nutshell, are that the petitioner was working as Block Extension Educator, when by order dated 25.03.1989 (Annexure A/2) on being found suitable by the Departmental Promotion Committee, recommended by the Public Service Commission, the petitioner was promoted to the post of Deputy District Extension and Media Officer. Thereafter, the petitioner having been promoted to the post, joined the office on 17.04.1989 (Annexure A/4) and continued to work till the impugned order dated 09.12.1994 (Annexure A/6) was passed, without affording an opportunity of hearing to the petitioner.

4. Shri Praveen Kumar Tulsyan, learned counsel appearing for the petitioner submits that the impugned order is punitive in nature and visits with civil consequences, prejudicing the career of the petitioner, adversely. The said punitive order is illegal as the basic principles of natural justice and fair play in

action have not been followed. He further submits that the impugned order be quashed with all consequential benefits.

5. Shri Yashwant Singh Thakur, learned Deputy Advocate General appearing for the respondent No. 1 to 3/State, per contra submits that it was not necessary to follow the principles of natural justice and fair play in action as the order of promotion dated 25.03.1989 (Annexure A/2) was passed ignoring the gradation list.

6. Shri Y.C. Sharma, learned counsel appearing for the respondent No. 4 submits that the Public Service Commission has only approved the recommendations made by the concerned Departmental Promotion Committee.

7. I have heard learned counsel appearing for the respective parties, perused the pleadings and documents appended thereto.

8. It is evident that the promotion order dated 25.03.1989 (Annexure A/ 2) was passed on the basis of the recommendations made by the Departmental Promotion Committee. The Departmental Promotion Committee, it appears, has examined all the aspects of the matter before recommending the name of petitioner for promotion, along with 57 other persons. The impugned order was passed without affording an opportunity of hearing to the petitioner. The contention of learned counsel appearing for the State that no show cause notice was required to be issued, is noticed to be rejected on the simple ground that no order which is punitive in nature and visits with civil consequences, causing prejudice to the person concerned can be passed without following the principles of natural justice.

9. Hon''ble Supreme Court in Bhagwan Shukla Vs. Union of India and others,) held as under:

The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter.

10. This Court in the matter of Laxman Prasad Mishra Vs. Krishi Upaj Mandi Samiti, Bemetara (Writ Petition No. 2800 of 1995), which was allowed vide judgment and order dated 17th April, 2006, held that no punitive order can be passed without affording an opportunity of hearing to the person concerned, who is affected prejudicially by the impugned order.

11. Applying the well settled principles of law to the facts of the case the petition is allowed. The impugned order dated 09.12.1994 (Annexure A/ 6) is quashed.

The petitioner is entitled to all the consequential benefits. No order as to costs.