
(2013) 10 MP CK 0074
In the Madhya Pradesh High Court
Case No : Writ Petition No. 2053 of 2013

Rajendra Shivhare

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 23-10-2013

Acts Referred:

Citation : (2013) 10 MP CK 0074

Hon'ble Judges : S.K. Gangele, J;G.D. Saxena, J

Bench : Division Bench

Advocate : S.K. Sharma, for the Appellant; Prakhar Dhengula and Shri Santosh Agrawal, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard. This petition has been filed against the order dt. 22nd February 2008 passed by the Central Administrative Tribunal in O.A. No. 1019/2005.
2. The petitioner was appointed as Ticket Collector on 11.6.1965. When he was in service, he was selected to the post of Guard under 20% quota. Thereafter, he was appointed as Guard on officiating basis on 20.1.1970. He continued on the post upto 1977.
3. In 1977, he submitted a representation and requested that he be transferred to his original post of Ticket Collector. The request was considered and vide order dt. 4.5.1977 the petitioner was posted as Ticket Collector in the pay scale of 260-400. He was promoted to the post of TTE in the pay scale of 335-360. Thereafter, he was further promoted to the post of Head TTE on 1.4.1984, then ACTI on 1.3.1994 and CTI on 27.4.1997 in the pay scale of 6500-10500/-.
4. The petitioner submitted a representation that his pay of TTE initially be protected because when he was posted as Ticket Collector in the year 1977, he had been getting the basic pay of Rs. 338/- on the post of Guard. That representation was rejected vide order dt. 1.12.2003, then he filed an objection before the Tribunal.

5. The grievance of the petitioner in regard to protection of pay is of the year 1977 to the effect that when he was posted as Guard, he was drawing the basic pay of Rs. 338/- and after his transfer to the post of Ticket Collector, this pay protection was not provided to him, however, the petitioner was transferred on the post of Ticket Collector on his own request and immediately thereafter he was promoted. He himself submitted that he would accept the terms and conditions of transfer. In such circumstances, he could not claim that he would be provided the protection of pay. Apart from this, petition was filed belatedly before the Tribunal.

6. The counsel for the petitioner relied on the judgment of the Hon"ble Supreme Court in M.R. Gupta Vs. Union of India and others, and submitted that the fixation of pay is continuous wrong, hence, the question of limitation does not arise.

7. In our opinion, the argument advanced by the learned counsel for the petitioner could not be accepted because this is not a case of pay fixation, it is a case of transfer from one post to another post on the request of the petitioner himself and the petitioner further submitted that he would accept the terms and conditions of transfer, thereafter he was transferred and he immediately got the benefit of promotion in the cadre of Ticket Collector and further promotion also. Hence, in our opinion, the Tribunal has rightly dismissed the application of the petitioner. We do not find any merit in this petition. It is hereby dismissed. No order as to costs.