

(1995) 07 MP CK 0062

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 1248 of 1991

R.C. Sachan

APPELLANT

Vs

Managing Director, Central Ware Housing Corporation and
Others

RESPONDENT

Date of Decision : 18-07-1995

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1995) 40 MPLJ 936 : (1995) MPLJ 936

Hon'ble Judges : Tejinder Singh Doabia, J

Bench : Single Bench

Advocate : Jeetendra Maheshwari, for the Appellant; Swami Saran, for the Respondent

Judgement

T.S. Doabia, J.

This petition arises out of following facts :-

The petitioner was working as sectional officer. He sought promotion to the post of Assistant Engineer. The Departmental Promotion Committee held its proceeding on 29th of May 1994. This committee found the petitioner not fit for promotion. His juniors were promoted. The petitioner preferred a representation. This was rejected by an order Annexure P-9. A further representation was filed. This was rejected vide order Annexure P-11.

In the representation annexure P-10 the petitioner had submitted that adverse reports were not communicated to him. With a view to meet this reasoning the authority deciding the representation observed that even if one adverse entry for the year 1982, is ignored even then, the petitioner would not be eligible for the promotion. By making above observation, the representation was rejected. It is against the rejection of the representation and earlier non promotion, the present petition has been preferred.

The respondents were fair enough to place on record the minutes of the

proceedings of the Departmental Promotion Committee. This is Annexure R. 1. A perusal of the proceeding brings out that the petitioner had two adverse reports. The remaining reports are good. His junior D. P. Singh had one adverse report. Another junior Shri Mahesh had all good report. His one report has been categorised very good. One A. V Prasad had all good report except one.

If one adverse report of the petitioner is ignored then his case is not different from O. P. Sharma and A. V. Prasad. Apart from this, the question as to whether the petitioner could or could not be promoted in absence of one adverse report is a matter, which could be decided by the Departmental Promotion Committee only. This committee comprised of 5 members. The opinion of Deputy Manager who decided the representation is that even if one adverse report is there the things would not improve. This cannot be said to be the opinion of Departmental Promotion Committee. Thus looking from any point of view the non promotion of the petitioner and consideration by the Departmental Promotion Committee cannot be said to be a proper and just consideration. Persons having similar record have been promoted.

Thus if one adverse report of the year 1982 is to be ignored then, the petitioner is at par with others. Accordingly a direction is given to the Respondents to consider the matter afresh and pass appropriate order. The petitioner also submitted that the adverse report of 1982 was not communicated to him. This aspect of the matter be also taken note of.

Let a decision be taken and a fresh exercise be taken within a period of 4 months. The period of 4 months would begin when the copy of the order passed by this court along with writ petition and Annexures are made available to the respondents.

Disposed of accordingly. Security if deposited, be refunded to the petitioner.