

(2008) 02 JH CK 0056
In the Jharkhand High Court

Satendra Prasad Yadav

APPELLANT

Vs

Heavy Engineering Corporation Ltd. and Others

RESPONDENT

Date of Decision : 28-02-2008

Acts Referred:

Citation : (2008) 2 JCR 538

Hon'ble Judges : M.Y. Eqbal, J; Dilip kumar sinha, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The appellant after retirement In 2001 has filed writ petition being W.P. (S) No. 5766 of 2002 making a grievance that in the year 1999 petitioner's juniors were promoted although he was senior and better person for promotion. The writ petition was dismissed by the impugned judgment dated 27.8.2007." For better appreciation, the impugned judgment dated 27.8.2007 is quoted here-in-below:

Heard the parties.

Petitioner claims promotional benefits from E-5 to E-6 grade w.e.f. 1.2.1999.

Mr. Anwar, appearing for the petitioner, submitted that by order dated 1.2.1999 petitioner's juniors were promoted, whereas petitioner's career was unblemished and he was senior and better than the persons promoted, in all respect. Petitioner retired in May, 2001.

2. The stand of the respondent as set out in paragraph 15 of the counter-affidavit, inter alia, is as follows. Petitioner was not considered for promotion in grade E-6, as it is a selection grade for which the criteria is merit and not the seniority only. His case along with other eligible Senior Managers was placed before the Departmental Promotional Committee. After going through the service particulars, qualification, length of service, quality of experience, records of performance as reflected in Annual Performance Appraisal Reports, performance in the interview, potential overall conduct and vigilance report of individual

candidates and after taking into account organization requirements, organizational Interest etc., the matter of promotion was decided. Petitioner's case was not found fit and therefore, he was not promoted.

3. In reply to the same, petitioner has stated in rejoinder that he was superior to those who got promotion.

It is settled law that an employee has got a right to be considered for promotion, but he cannot claim promotion as a matter of right. Admittedly, petitioner's case was considered. The specific assertion of the respondents that E-6 grade is a selection grade for which the criteria was merit and not the seniority, has not been denied by the petitioner.

In these circumstances, I find no merit in this writ petition which is, accordingly, dismissed.

4. Mr. Anwar, learned Counsel for the appellant, assailed the impugned judgment on the ground that the Court assumed that seniority was not the criteria for promotion. Learned Counsel brought on record An-nexure-1 to the memo of appeal, which is a promotion rules for executives.

5. We have pursued the promotion rules. The rule does not speak that seniority shall be the criteria for promotion rather Rule 11.1 provides that the Departmental Promotion Committee shall, while determining the suitability of executives for promotion, take into consideration the qualification, length of service, quality of experience, service records, annual performance appraisal and the vigilance reports.

6. In our view, therefore, the learned single Judge has rightly held that firstly the appellant cannot claim promotion as a matter of right and secondly seniority cannot only be the criteria for promotion. Be that as it may, we are of the further view that a person retired in the year 2001 and after retirement filed writ petition with a grievance that he was not promoted to the executive grade in the year 1999. It has not been disputed that the appellant's case was considered for promotion by the Departmental Promotion Committee. Since the right of non-consideration by the Departmental Promotion Committee has not been denied to the appellant, we do not find at all any merit in the instant appeal filed by the appellant.

7. For the reason aforesaid this appeal is dismissed.