
(2012) 08 MP CK 0107
In the Madhya Pradesh High Court
Case No : W.A.No. 2 of 2010

Shashi Khatri

APPELLANT

Vs

M.P. State Electricity Board

RESPONDENT

Date of Decision : 22-08-2012

Acts Referred:

Citation : (2012) 08 MP CK 0107

Hon'ble Judges : N.K. Mody, J;Brij Kishore Dube, J

Bench : Division Bench

Advocate : D.K. Katare and Mr. B.B. Shukla, for the Appellant; Vivek Jain, Advocate for the Respondents No. 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

1. This is writ appeal against the order dated 10.11.2009 passed in Writ Petition (S) No. 2018/2004 by the Writ Court, whereby, the petition filed by the appellant to grant promotion to the post of Office Assistant Grade II w.e.f. 1.1.1991 was dismissed. Short facts of the case are that the appellant was posted as Office Assistant Grade-III. The appellant was promoted in the year 1989 to the post of Office Assistant Grade II but due to her personal reasons, she was not able to join the promotional post, thereafter, the appellant was again promoted in the year 1997 to the post of Office Assistant Grade II. A petition was filed by the appellant in the year 2004, wherein, it was mentioned that even after repeated representations, the appellant has not been promoted right from 1991, therefore, the petition filed by the appellant may be allowed and the appellant be considered for the promotion from 1991 itself.

2. The petition was opposed by the respondents on various grounds including on the ground of delay and laches.

3. After hearing the parties, the Writ Court dismissed the petition on the ground of delay and laches against which present appeal has been filed.

4. Learned counsel for the appellant submits that the order passed by the Writ

Court is illegal and contrary to the law, hence, deserves to be set-aside. It is submitted that the petition could not be dismissed on the ground of delay and laches as the fact has not been taken into consideration that for the first time the representation was dismissed by the respondents vide order dated 29.7.2004 and immediately thereafter the petition was filed. It is submitted that in the facts and circumstances of the case, the impugned order deserves to be quashed. Learned counsel for the appellant has placed reliance on the case of Sushil Kumar Yadunath Jha Vs. Union of India (UOI) and Others, , hence, the appeal filed by the appellant be allowed and the order passed by learned writ court may kindly be set-aside.

5. Learned counsel for the respondents opposed the prayer and submits that no illegality has been committed by the learned Writ Court in dismissing the petition as the petition filed by the petitioner suffers from delay and laches. It is submitted that for the first time the case of the appellant was considered in the year 1989 and the appellant was granted promotion to the post of Office Assistant Grade II, but the appellant has submitted a representation wherein prayed for extension of joining period for 30 days. The appellant did not join the promotional post, therefore, the promotion order was cancelled. It is submitted that as per amended Services Rules dated 5.2.1990 if an employee who has been promoted does not join on the promotional post, then his/her case cannot be considered for a period of one year. It is submitted that the appellant has been promoted in the year 1997. Thus, in the facts and circumstances of the case, the learned Writ Court has committed no error and the writ petition was dismissed on the ground of delay and laches. Keeping in view the facts and circumstances of the case and the fact that the appellant was promoted in the year 1989 itself, but the appellant failed to join because of her personal reasons and ultimately the appellant has again been promoted in the year 1997 to the post of Office Assistant Grade II, while the petition has been filed in the year 2004, thus, the petition has rightly been dismissed by the Writ Court on the ground of delay and laches, hence, no case is made out for interference in the order passed by the Writ Court. The appeal filed by the appellant is dismissed.