

(2011) 06 MP CK 0031
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 526 of 2006

State of M.P. and Another

APPELLANT

Vs

Onkar Lal

RESPONDENT

Date of Decision : 03-06-2011

Acts Referred:

Citation : (2011) 4 MPHT 135

Hon'ble Judges : S.S. Kemkar, J;S.C. Sharma, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

As per Shantanu Kemkar, J.—Heard on the question of admission.

2. By this writ appeal, the appellants have challenged the order dated 6-9-2006 passed by learned Single Judge of this Court in W.P. (S) No. 3238 of 2006.

3. Briefly stated the respondent was appointed vide order dated 9-10-1984 issued by the Superintending Engineer, Narmada Vikas Division No. 10, Indore on being selected by a duly constituted Departmental Selection Committee. In his order of appointment a condition was imposed to pass Hindi Typing Examination within two years with a further stipulation that only after one year of passing of such examination he will be entitled for the benefit of regular increments.

4. Thereafter in his passing of the Hindi Typing Examination from the recognized Institute, the appellant released the regular increments in favour of the respondent in terms of his appointment order.

5. Feeling aggrieved by non-release of the increments after one year of his initial appointment, the respondent herein filed W.P. No. 3238 of 2006 claiming increments from the date of his appointment.

6. The learned Single Judge after considering the various orders passed from time to time including an order dated 7-7-2006 passed in W.P. No. 2778 of 2005,

Chamanlal Rathore V. State of M.P., allowed the writ petition of the respondent and directed the appellants herein to grant the respondent regular annual increments after one year from the date of his initial appointment. Aggrieved, the appellants have filed this writ appeal.

7. Having heard learned Deputy Government Advocate for the appellants, we find no merit in this writ appeal.

8. The respondent was appointed in the employment of Water Resources Department. His recruitment was under M.P. Irrigation Department (Non-Gazetted) Service Recruitment Rules, 1969 (for short, "the Rules"). The eligibility criteria provided in the Rules for recruitment on the post of Lower Division Clerk on which the respondent was appointed was passing of Matriculation or equivalent examination. It further provides that preference shall be given to those possessing certificate in typewriting. Thus, as per the Rules, the essential qualification for the purpose of recruitment on the said post was passing of matriculation or equivalent examination. The candidates possessing the certificate of typewriting were only to be given preference.

9. In the circumstances, passing of typing examination being not the essential qualification for the purpose of recruitment on the said post, the imposition of stipulation of passing of the Hindi Typewriting Examination as prerequisite condition for release of the increment cannot be said to be justified. The said condition imposed in his appointment order that the increment shall be payable only after passing of the Hindi Typing Examination being contrary to the recruitment rules, the same cannot be made basis to deny the benefit of regular increments after one year from the date of his initial appointment.

10. In view of the aforesaid, in our considered view, the order passed by the learned Single Judge being in consonance with the Rules, no case for interference in this Intra Court Appeal is made out.

11. We have also been informed that the cases of number of similarly situated employees of the same department have been decided by the learned Single Judge and in those cases including in the case of Chamanlal Rathore (*supra*), no writ appeals have been filed and the said orders including the order passed in W.P. No. 2778 of 2005 on 7-7-2006 have already attained finality.

12. In view of the aforesaid also the writ appeal fails and is hereby dismissed.