
(2010) 05 MP CK 0022

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1695 of 2005 (S)

State of M.P. and Others

APPELLANT

Vs

Babulal Sharma and Others

RESPONDENT

Date of Decision : 11-05-2010

Acts Referred:

Madhya Pradesh Industrial Relations Act, 1960 — Section 31(1), 34, 61, 62

Citation : (2011) 128 FLR 670

Hon'ble Judges : N.K. Mody, J;I.S. Shrivastava, J

Bench : Division Bench

Judgement

N.K. Mody and I.S. Shrivastava, JJ.—Being aggrieved by the order dated 7.11.2003 passed by Industrial Court, MP., Indore in Appeal No. 190/MPIR/2001 whereby the judgment dated 31.3.2001 passed by Labour Court Ujjain in Case No. 70/94 whereby the petition filed by the Respondent No. 1 under Sections 31(1), 34, 61 and 62 of MPIR was dismissed, was set aside with a direction to the Petitioners to reconsider the case of the Respondent No. 1 for promotion on the post of time keeper and to pay the difference of wages, the present petition has been filed.

2. Short facts of the case are that the Respondent No. 1 filed a petition before the learned Labour Court alleging that vide order dated 26.4.1977 Respondent No. 1 was appointed on the post of Maid. It was alleged that the next post of promotion after the Maid is time keeper. It was alleged that vide order dated 2.11.1992 Respondent Nos. 2 to 4 were promoted, while Respondent No. 1 was entitled for promotion. It was alleged that Respondent No. 1 is entitled for promotion on the post of time keeper and is also entitled for difference of wages w.e.f. 2.11.1992 as the Respondent No. 1 was victimized. Petition was contested by the Petitioners. After holding summary enquiry, learned Labour Court found that there is nothing on record on the basis of which it can be said that there was malafides on the part of Respondent No. 1 and the petition filed by Respondent No. 1 was dismissed, against which an appeal was filed by Respondent No. 1,

which was allowed with a direction to consider the case of Respondent No. 1 for the promotion on the post of Time Keeper from the date when Respondent Nos. 2 to 4 were promoted and also pay the difference of salary, against which present petition has been filed.

3. Learned Counsel for the Petitioners argued at length and submits that the impugned order passed by the learned Industrial Court is illegal, incorrect and deserves to be set aside. It is submitted that in the facts and circumstances of the case no such type of direction could have been given. It is submitted that the petition filed by the Petitioners be allowed and the impugned order passed by the learned Industrial Court be set aside.

4. Learned Counsel for Respondent No. 1 submits that no illegality has been committed by the learned Industrial Court in passing the impugned order, which can be corrected by this Court while exercising writ jurisdiction. It is submitted that the petition be dismissed.

5. From perusal of the record it is evident that the learned Labour Court has held that the promotion matter is not a schedule subject under MPIR Act unless any illegality is brought to the notice. While deciding the appeal, learned Appellate Court has observed that undisputedly the post of time keeper is higher from the post of Mait. It is also observed by the learned Appellate Court that in the statement of Sunil Kumar Jain it has come that in case of direct recruitment on the post of time keeper under the rules, an employee is not entitled for promotion, but the said rules were not placed on record. It is also observed that there is nothing on record to show that the Respondent Nos. 2 to 4 were directly appointed on the post of time keeper. In the facts and circumstances of the case, learned Industrial Court has directed to reconsider the case of Respondent No. 1 for the post of time keeper and at the time of promotion of Respondent Nos. 2 to 4 to pay the difference of salary.

6. In the facts and circumstances of the case, petition filed by the Petitioners 1 is disposed of with a short direction that the Petitioners shall consider the case of Respondent No. 1 for promotion on the post of Time Keeper on 2.11.1992 when the Respondent Nos. 2 to 4 were promoted on the post of Time Keeper. While considering the case of Respondent No. 1, the Competent Authority shall take into consideration the appointment/promotion of Respondent Nos. 2 to 4 and also the relevant rules after examination of the case of Respondent No. 1. The Competent Authority shall pass final order and if found that Respondent No. 1 was entitled for promotion on the post, of time keeper, then shall pay the difference of wages, if any. If the Competent Authority is of the view that the Respondent No. 1 was not entitled for promotion on the post of Time Keeper, then reasoned order shall be passed. Compliance be made within a period of six months positively without fail. In case of non-compliance, Competent Authority shall be liable to face the consequences.

7. With the aforesaid observations, petition stands disposed of.

C.C. as per rules.