

(2000) 10 MP CK 0047

In the Madhya Pradesh High Court

Case No : Writ Petition No. 149 of 2000

Subhashchandra Barnasia

APPELLANT

Vs

M.P.E.B. and Others

RESPONDENT

Date of Decision : 16-10-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 4 MPHT 288 : (2001) 3 MPLJ 622

Hon'ble Judges : Jayant Govind Chitre, J

Bench : Single Bench

Advocate : M.I. Khan, for the Appellant; Patwardhan, for the Respondent

Final Decision : Allowed

Judgement

J.G. Chitre, J.

When a query was made to Shri Patwardhan asking him to make submissions and inform the Court as to which remarks have been considered for degrading the petitioner, and refusing him to grant higher pay and increments, Shri Patwardhan was unable to answer the query. He produced the record as if the Court should read the record and draw the inference. This act leads this Court to two conclusions, (i) that Shri Patwardhan is unable to answer the query, resultantly it means that the respondents are unable to justify their action and (ii) that there is nothing with the respondents to justify their action and, therefore, their lawyer is unable to answer the query made by the Court.

Two pages information has been put up before the Court in view of the previous order passed by this Court. It shows that adverse remarks have been passed against the petitioner pertaining to year 1985 but that was conveyed to him on 11-4-86. The adverse remark has been passed against him indicating him "D". It pertains to period 1-1-86 to 20-6-86. It has been conveyed to the petitioner on 21-5-87. The sheets show that adverse remarks "D" "B" "C" which are pertaining to period from 1-1-86 to 20-6-86, 2-2-86 to 31-3-87, 1-4-87 to

13-10-87 have been conveyed to petitioner on 20-9-88. There is no acceptable explanation for this delay as advanced before this Court.

Remark "C" has been passed against him pertaining to year 1993. That has been conveyed to him on 22-5-93. Remark "D" has been passed against him and that has been conveyed to him on 12-7-94. Remark "C" has been passed against him which had been conveyed to him on 19-5-95.

Remark "B" has been passed in context with year 1996 which does not seem to have conveyed to him. Remark "B" has been awarded to him for year 19% but there seems to be no information that it has been conveyed to him. The same is the case in respect of remark "B" which has been passed in his context in the year 1998 twice. But there is no information whether they have been conveyed to him or not.

Remark "D" has been passed against him pertaining to period commencing from 1-4-98 to 7-11-98. It has been conveyed to him on 9-6-99. No remark has been passed in his context pertaining to year 1999. It is in context with period commencing from 8-11-98 to 31-3-99. There is no endorsement whether that has been conveyed to him or not because the sheet shows an endorsement "due to suspension".

It is the case of the petitioner that the petitioner was appointed on 2-7-74 on the post of Supervisor. It is the contention of the petitioner that afterwards the said post of Supervisor has been converted into Sub-Engineer but the petitioner has not given the information as to when that action has been taken. It is the averment that in the year 1982 he submitted a Form which has been indicated by Annexure P-3 for getting the increments.

Paragraphs 5, 6 and 7 indicate as to how the petitioner requested the respondents to consider his case for increment and higher salary. Paragraph 4 shows that on 30th July, 1982 by the order of the Divisional Engineer, M.P.E.B. Raigarh, the petitioner worked as Assistant Engineer. It has been indicated by Annexure P-4. Annexure P-6 shows that vide order dated 3-10-85, he was given higher pay and was brought in higher pay-scale. Paragraph 6 shows that vide Annexure P-7 the petitioner was censured but it was in context with year 1982. Annexure P-8 shows that the petitioner was permitted to cross the Efficiency Bar.

Thus, all the Annexures show that whatever was inefficient in his work and efficient in his performance was found by the respondents-officers, was condoned when he was permitted to cross the Efficiency Bar on 26-11-1983. The respondents do not have any satisfactory material to show that their action of putting the petitioner down and not giving him higher salary is justifiable or justified.

When an employee is permitted to cross efficiency bar it implicitly means that whatever is appearing adverse in his prior AC.Rs. has been condoned and implicitly it has been treated to have been washed out. Thereafter his

performance is to be treated as with "clean slate".

The petitioner is a Junior Engineer. He is concerned with the duty which is to be performed by him suitable to his post and that is in context with service which is to be rendered to the public. Therefore, this petition is hereby finally decided at this stage.

The petition is hereby allowed: A Writ of Mandamus is hereby issued in favour of the petitioner and against the respondents directing the respondents to consider his prayer for higher salary in view of permitting him to cross the Efficiency Bar on 16-11-1983. He be given increments and higher salary in the spirit of the said order. Respondents are directed to pay the cost of this petition.

Writ Petition allowed.