

(2002) 07 MP CK 0057

In the Madhya Pradesh High Court

Case No : Letters Patent Appeal No. 139 of 2000

Sultan Ahmad

APPELLANT

Vs

M.P. State Road Transport Corporation and Others

RESPONDENT

Date of Decision : 12-07-2002

Acts Referred:

Madhya Pradesh Fundamental Rules — Rule 56

Citation : (2002) 94 FLR 1018 : (2003) ILR (MP) 956 : (2002) 4 MPHT 328 : (2002) 2 MPJR 345 : (2002) 3 MPLJ 499

Hon'ble Judges : R.B. Dixit, J; Chandresh Bhushan, J

Bench : Division Bench

Advocate : N.K. Modi, for the Appellant; A.K. Shrivastava, and None, for the Respondent

Final Decision : Dismissed

Judgement

Chandresh Bhushan, J.

Aggrieved by the order of dismissal in part of his petition, regarding his claim for benefit of superannuation at the age of 60 years, passed by a Single Judge of this Court in Writ Petition No. 1373/97 on 2-2-2000, this L.P.A. under Clause 10 of the Letters Patent of Nagpur, has been preferred by the appellants.

The facts in brief are that the appellant who was appointed initially as apprentice cleaner in Madhya Bharat Roadways, Gwalior, w.e.f. 1-3-1959 and after his promotions as Assistant Mechanic and then Mechanic in different grades and ultimately as Works Supervisor, retired w.e.f. 30-6-97 on completion of 58 years of age. A petition was thereafter filed by him in this Court claiming that he was entitled to continue in service till the completion of 60 years, which was the age of superannuation for the employees of Madhya Bharat Roadways and which was a condition of service saved vide communication dated 31-5-1962, issued at the time of transfer of his services to the Madhya Pradesh State Road Transport Corporation created on 1-6-1962 and from where he was retired. This petition of

his was dismissed by the learned Single Bench vide impugned order dated 2-2-2000.

While dismissing the petition of appellant the learned Single Judge observed that the decision of Hon'ble Supreme Court in the case of S.P. Dubey v. Madhya Pradesh State Road Transport Corporation and Anr., reported in 1991 MPLJ 1, was not applicable to his case as there was no document to demonstrate that the age of superannuation in the Madhya Bharat Roadways was 60 years for such employees. It was submitted by the learned Counsel for the petitioner that the learned Single Judge has erred because no such document was required as there as a clear cat provision in F.R. 56 of the Fundamental Rules applicable to the erstwhile State of Madhya Bharat, whose employee he was. The said Rule provided that the workman governed by this rule shall ordinarily be retained in service after age of 60 years and it was submitted by the learned Counsel for the appellant that the appellant being Mechanic and ultimately a Works Supervisor in Workshop fell in that category of workman.

After hearing the arguments of both the sides at length, this contention for appellant that he was governed by the F.R. 56 of the Fundamental Rules applicable to the erstwhile State of Madhya Bharat, appears to be misconceived and was therefore unacceptable.

Admittedly, the appellant was appointed for the first time w.e.f. 1-3-1959, i.e., much after 1-11-1956, which was the date when the present State of Madhya Pradesh comprising of the territories of the old State of Madhya Bharat, Vindhyaachal etc. came into existence. It is not disputed that the Madhya Bharat Roadways was a unit of the erstwhile State of Madhya Bharat. With the formation of new State of Madhya Pradesh w.e.f, 1-11-1956, it had become the unit of successor State, which was Madhya Pradesh. Though the name of Madhya Bharat Roadways continue to be used, therefore, the appellant when employed on 1-3-1959 was employed as an employee of the Govt. of the State of Madhya Pradesh and not Madhya Bharat and therefore was not a workman, who was governed by the Fundamental Rules applicable to the erstwhile old State of Madhya Bharat. He was naturally governed by the Fundamental Rules applicable to the employees of the then existing State of Madhya Pradesh wherein age of superannuation for any such employee was not 60 years. The decision in the case of Shafiullah v. M.P.S.R. T. Corporation, Gwalior, reported in 1990 MPLJ 515, was not applicable to the case because appellants in that case were admittedly employees initially appointed in Madhya Bharat Roadways when it was part of Madhya Bharat Govt. Similarly, the decision of this Court in the case of M.P. State Road Transport Corporation v. V.D. Tiwari, reported in 1996(1) MPJR 304, relied upon by the learned Counsel for the appellant was not applicable to the present case because, the respondent in that case was an employee appointed in Madhya Bharat Roadways before 1-11-1956.

The facts of the present case were materially similar to those in the case of S.K. Siddique v. Madhya Pradesh State Road Transport Corporation and another,

reported in 1991 MPLJ 230, the only difference being that the concerning employee in that case was employed in 1960 in the area covered by the Central Provinces Transport Services, but that difference was of no consequence, as employee concerned in that case as well as the appellant in the present case both were employed in Transport Department of the State of Madhya Pradesh, which came into existence after 1-11-1956.

Thus, it cannot be said that the age of superannuation for the appellant was 60 years ever before the transfer of his services to the Madhya Pradesh State Road Transport Corporation in 1962. Therefore, the final order of the learned Single Bench was perfectly valid and called for no interference. This appeal is therefore dismissed. In the peculiar circumstances of the case, it is ordered that the parties shall bear their own costs.