

Santosh Bansi Mahajan

Vs

State Industrial Court, Madhya Pradesh and Others

Civil Appeal No. 5305 (NL) of 1983

(Pathak, J.)

21.10.1983

JUDGMENT

PATHAK, J. -

1. This appeal by special leave is directed against the judgment and order dated December 12, 1979 of the High Court of Madhya Pradesh dismissing a writ petition filed by the appellant.
2. We have heard learned counsel of the appellant and for the respondent employer. The respondent M. P. Singh has been served with notice of the appeal but has not entered appearance.
3. The appellant and the respondent M. P. Singh are employees in the Bhilai Steel Plant. The appellant was appointed as a fitter on January 18, 1960 and thereafter he was appointed to the post of Chargeman Grade III by an order dated August 26, 1964 with effect from July 1, 1964. On January 10, 1966, he was promoted to the post of Chargeman Grade II. M. P. Singh was originally appointed to the post of Assistant Material Chaser on May 26, 1961 and this was followed by a promotion to the post of Material Chaser with effect from July 1, 1964. M. P. Singh filed an application before the Labour Court under Section 31(3) read with Section 61 of the Madhya Pradesh Industrial Relations Act, 1960 claiming promotion to the post of Chargeman Grade II. He also claimed that he was senior to the appellant. The Labour Court upheld this claim. It found that M. P. Singh was entitled to the post of Chargeman Grade II with effect from January 10, 1966, that he was, therefore, entitled to arrears of pay for the period January 10, 1966 to June 30, 1973 (from which date he had been treated by the employer as holding the post of Chargeman Grade II), and further that he was senior to the appellant. Against the award of the Labour Court the employer filed a revision petition, but the revision petition was dismissed. The appellant now filed a writ petition in the High Court contending that M. P. Singh was not entitled to promotion to the post of Chargeman Grade II, and the High Court has dismissed the writ petition on the merits.
4. In this appeal the only point raised by the appellant is that M. P. Singh is not entitled to seniority over him in the cadre of Chargeman Grade II, and he urges that the High Court and Labour Tribunals overlooked the fact that in the order dated August 26, 1964 appointing the appellant to the post of Chargeman Grade III, the appellant had been promoted to that post with effect from July 1, 1964 but "with notional seniority with effect from July 1, 1963". Consequently, it is contended, the appellant must be regarded as senior to M. P. Singh, who could claim seniority only with effect from July 1, 1964, when he was promoted to the post of Material Chaser.
5. In support of the contention reliance is placed on a document which purports to be an Office Order No. IM (MM)/P/2.14/2823 dated August 26, 1964. It seems from a perusal of the original

record now produced before us that this document was not on the record before the Labour Court and the Industrial Court at the time when the claim of M. P. Singh was considered. We think it necessary that a copy of this document should now be filed before the Industrial Court by the appellant and the question of seniority of the appellant in relation to M. P. Singh should be examined afresh.

6. We may note, however, that the award of the Labour Court must remain undisturbed insofar as it holds that M. P. Singh is entitled to the post of Chargeman Grade II with effect from January 10, 1966, and is entitled to arrears of pay accordingly. That part of the award has become final. All that the Industrial Court can do now is to determine afresh the issue of seniority between the appellant and M. P. Singh in the cadre of Chargeman Grade II.

7. Accordingly, we allow the appeal, set aside the judgment of the High Court under appeal and the order of the Industrial Court dated October 11, 1977 insofar only as they conclude the question of seniority in the cadre of chargeman Grade II between the appellant and M. P. Singh, and remand the case to the Industrial Court for decision on that question in the terms set out above, and for disposal of the case accordingly. The parties to the dispute will be entitled to lead evidence in view of the above mentioned document being brought on the record. It is hoped that the Industrial Court will dispose of the case as expeditiously as possible, preferably within six months from the receipt by it of a copy of this order.

8. There is no order as to costs.

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