

Writ Petition No. 11701 of 2009

30/08/2011

Shri M. K. Agrawal, learned counsel for the petitioners.

Shri A. S. Pathak, learned counsel for the respondent.

With consent matter is heard finally.

This petition under Article 227 of the Constitution of India is directed against the order dated 15-06-2009 passed by Industrial Court, Rewa; whereby, the appeal preferred by respondent/workman against the order dated 22-10-2008 passed by the Labour Court in Case No. 22/2000 under the Madhya Pradesh Industrial Relation Act, 1960, (hereinafter referred to as 'the Act of 1960') has been allowed.

Respondent while engaged as Driver with the establishment of Madhya Pradesh State Electricity Board and posted in the Office of Executive Engineer (O & M), Sidhi Division, was compulsorily retired on 29-07-2000 on the ground of medical unfitness due to colour blindness. Being aggrieved respondent-workman filed an application under section 31(3), 61 & 62 of the Act of 1960. The Labour Court by order dated 22-10-2008 dismissed the said application mainly on the ground that

having given an opportunity to opt for an alternate job, the workman declined to exercise the said option, therefore, his compulsorily retirement was upheld. Aggrieved by the said order respondent/workman preferred an appeal under section 65 of the Act of 1960. The said appeal was decided on 15-06-2009; whereby, the decision rendered by the Labour Court dated 22-10-2008 was set aside. The employer/petitioner was also directed to pay the entire wages up till the age of superannuation (pertinent it is to note that the respondent/workman during pendency of the case before the Labour Court/Industrial Court retired on attaining the age of superannuation on 30-07-2000).

Though learned counsel appearing for the petitioner, with vehemence, has put forth the submission that the finding recorded by Industrial Court in paragraph 8 that the workman had tendered his option, is perverse. The submission when tested on the anvil of the statement of the workman recorded before the Labour Court falls on all fours.

Before the Labour Court it was categorically stated by the workman that “मैं विपक्षी संस्थान में जनवरी 79 से कार्य कर रहा था। मेरी नियुक्ति दिनांक से ही चालक के पद पर कार्य कर रहा था। मेरी नियुक्ति के समय चालकों का मेडीकल परीक्षण नहीं होता था

अब होता है। मेरा स्वास्थ्य परीक्षण 98 में कराया गया था। मेडीकल बोर्ड ने आँखों में कलर ब्लाइंडिस की रिपोर्ट दी थी। उसके बाद में मण्डल के कार्य पर प्रतिदिन उप० होता था। मुझसे मौखिक कार्य लेते थे। कभी बुलाने का कार्य कभी कागजात इधर उधर करने का कार्य लेते थे। मेडीकल रिपोर्ट के आने के बाद मैं कार्य पर उपस्थित रहता था किन्तु मुझे वेतन नहीं दिया जाता था। मैंने मण्डल से वेतन की मांग किया था। किन्तु वेतन नहीं दिया गया है। कारण नहीं बताया गया। प्रतिमाह मेरे वेतन का पे बिल बनता था लेकिन वेतन नहीं दिया जाता था। मण्डल से मुझे चालक के अलावा अन्य कार्य हेतु सहमति पत्र प्राप्त हुआ था। उसका जबाव मैंने मण्डल को दिया था मैंने जबाव दिया था कि मुझे भृत्य बना दिया जाये किन्तु मण्डल ने नहीं बनाया। मैंने अपने प्रार्थना पत्र में यह भी निवेदन किया था कि वेतन वही दिया जाए जो चालक का वेतनमान था।”

In view of categorical stand of the respondent/workman before the Labour Court and the fact that despite of having opted for an alternative job, the action of the petitioner in compulsorily retiring the respondent/workman has rightly been held to be bad by the Industrial Court. Since we perceive no error in the approach of the Industrial Court, we refrain to interfere with the same.

In the result petition fails and is hereby dismissed.

(AJIT SINGH)  
JUDGE

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(SANJAY YADAV)  
JUDGE