

Madhya Pradesh Madhya Kshetra Vidyut ... vs Dharmendra Singh Jadon on 13 January, 2020

Bench: Sanjay Kishan Kaul, K.M. Joseph

1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.239-240/2020
[@ SLP [C] NOS.11484-11485/2019]

MADHYA PRADESH
MADHYA KSHETRA VIDYUT VITARAN CO. LIMITED & ANR.

Appellant(s)

VERSUS

DHARMENDRA SINGH JADON

Respondent(s)

O R D E R

Leave granted.

The appellant sought recourse to the provision for compulsory retirement in public interest under the provisions of Rule 42 of Madhya Pradesh Services Pension Rules, 1976 to put an end to the services of the respondent. The provision is to get rid of the deadwood. The endeavour of the respondent both before the learned Single Judge and the Division Bench of the Madhya Pradesh High Court have been successful and hence the present appeals.

We have heard learned counsel for the parties and perused the record.

The position of the ACR of the respondent employee is being extracted as under as affirmed in the application filed (Annexure P-9) before the High Court:

“ 1989-90 D 1990-91 (two parts) B D 1991-92 D 1992-93 C 1993-94 D 1994-95 D 1995-96 C 1996-97 C 1997-98 D 1998-99 D 1999-00 C 2000-01 B 2001-02 B 2001-02 D 2002-03 Not written as under

suspension, then from 19.09.2002 unauthorizedly absent/absconding 2003-04 Not written due to absconding 2004-05 Not written due to absconding 2005-06 Not written due to absconding 2006-07 Not written due to absconding 2007-08 D 2008-09 D “ It is in view of the submission of learned counsel for the appellant that

for the last five years the respondent absented unauthorizedly, that notice was issued in the matter as recorded in the order dated 09.05.2019 since what had weighed with the learned Judges in the impugned order was the non-placement of the ACRs for the last five years before the Scrutiny Committee. The impugned orders have relied upon the principles laid down by this Court in Rajasthan State Road Transport Corporation and Ors. v. Babu Lal Jangir - 2013 10 SCC 531 opining that the compulsory retirement should be based on appraisal of overall performance during the whole tenure of service having regard to the entire service record of the employee and taking a holistic view.

A perusal of the service record of the respondent leave us with no doubt that if this is not a case of deadwood, what would be the case of the deadwood considering that the grading of the respondent is 'D' or 'C' except for two years when it was 'B'. Not only that, for the last five years the respondent absented from duty and thus, there would be no occasion to consider the services record of the last five years.

We are unable to agree with the reasoning of the learned Single Judge and the Division Bench and thus, set aside the impugned orders and sustain the order of compulsory retirement.

The appeals are allowed and the parties are left to bear their own costs.

.....J. [SANJAY KISHAN KAUL]J.
[K.M. JOSEPH] NEW DELHI;

JANUARY 13, 2020.

ITEM NO.28

COURT NO.12

SECTION IV-A

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Petition(s) for Special Leave to Appeal (C) No(s). 11484-11485/2019

(Arising out of impugned final judgment and order dated 05-02-2019 in WA No. 1639/2018 and order dated 08-03-2019 in RP No. 334/2019 passed by the High Court Of M.P. At Gwalior) MADHYA PRADESH MADHYA KSHETRA VIDYUT VITARAN CO. LIMITED & ANR. Petitioner(s) VERSUS DHARMENDRA SINGH JADON Respondent(s) IA No. 74446/2019 - EXEMPTION FROM FILING O.T. Date : 13-01-2020 These matters were called on for hearing today. CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL HON'BLE MR. JUSTICE K.M. JOSEPH For Petitioner(s) Ms. Anshruta Maheshwari, Adv.

Mr. Mirza Kayesh Begg, Adv.

Mr. Rohit K. Singh, AOR For Respondent(s) Ms. Anushree Shukla, Adv.

Mr. Prashant Shukla, Adv.

Ms. Pratibha Yadav, Adv.

Mr. Arsh Dhanotia, Adv.

Ms. Sukriti Bhardwaj, Adv.

Mr. Abhinav Ramkrishna, AOR UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeals are allowed in terms of the signed order. Pending application stands disposed of.

(ASHA SUNDRIYAL)
COURT MASTER

(ANITA RANI AHUJA)
COURT MASTER

[Signed order is placed on the file]