

## **State Of Madhya Pradesh And Others vs Ramesh Kumar Sharma on 7 January, 1993**

**Equivalent citations: AIR1994SC845, (1995)IILLJ76SC, 1994SUPP(3)SCC661, AIR 1994 SUPREME COURT 845, 1994 AIR SCW 218, 1994 (3) SCC(SUPP) 661, (1994) 8 SERVLR 635, 1995 LABLR 744, 1995 SCC (L&S) 192, (1995) 2 LABLJ 6, (1995) 4 SCT 330, (1994) JAB LJ 779, (1994) 1 LAB LN 576, (1994) 28 ATC 707**

**Bench: Lalit Mohan Sharma, A.M. Ahmadi**

### **JUDGMENT**

1. Heard the learned Counsel for the parties. Special leave is granted.
2. The respondent's father-Shri J. P. Sharma, who was a constable, died in 1978 and in November, 1981, the respondent applied for appointment as Sub-Inspector on compassionate grounds. The matter was examined at several levels and ultimately the post of a lower divisional clerk was offered to the respondent, which he did not accept. He moved the State Administrative Tribunal for a direction to the appellant-State for his appointment as APP-Grade-II. By the impugned judgment the Tribunal allowed the prayer of the respondent.
3. Learned Counsel for the appellants has contended that under the instructions in question the respondent is not entitled to a higher post of his choice merely because he fulfils the requisite eligibility qualifications. Learned Counsel for the respondent has attempted to defend his case by citing the illustration of another applicant-Rajiv Dwivedi-who, according to him, was appointed in similar circumstances as APP-Grade II. The facts relating to Rajiv Dwivedi are not on record and it is the mere assertion of the respondent that the circumstances are identical. Even assuming that Rajiv Dweivedi's case was similar to that of the respondent, the applicant has no right to any particular post of his choice, he can only claim to be considered for that post. It would ultimately be for the authority to decide if some common principle was involved in the two cases. If a mistake was committed in an earlier case,that cannot be a ground for directing the State to perpetuate the error for all times to come. Learned Counsel for the respondent has not been able to show before us any rule or Government instructions under which the respondent can claim the post of APP-Grade II.
4. In these facts and circumstances, we think that the Tribunal was not right in allowing the case of the respondent. Accordingly, the appeal is allowed, the impugned judgment is set aside and the prayer of the respondent for his appointment as APP-Grade II is rejected. It will, however, be open to the respondent to indicate his agreement to accept the post of lower divisional clerk which was offered to him by the appellants in 1988 and if he does so, the appellants shall promptly appoint him against that post.

5. The appeal is allowed without any order as to costs.