

Jayant Mahurkar Vs. M.P. Housing and Infrastructure Development Board

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Court : Madhya Pradesh

Decided On : Jan-28-2013

Appellant : Jayant Mahurkar

Respondent : M.P. Housing and Infrastructure Development Board

Advocate for Def. : Shri. Himanshu Misra

Advocate for Pet/Ap. : Shri. Y.M.Tiwari

Judgement :

WP 6800.12 Writ Petition No.6800 of 2012 (Jayant Mahurkar v .M.P.

Housing and Infrastructure Development Board, Bhopal and another) 28-01-2013
Shri Y.M.Tiwari, learned counsel for the petitioner.

Shri Himanshu Misra, learned counsel for the respondents.

Heard.

Petitioner, retired Sub-Engineer, vide this petition seeks direction to respondents for settlement of entire retiral dues as per his entitlement.

Facts giving rise to controverRs.which hampered the settlement of dues, in nutshell are that initially engaged as Muster Clerk in the year 1973, the petitioner was brought on Work Charge Establishment as Sub-Engineer whereon he was regularized on 09-02-1988.

Later on in the year 1999 he was served with a charge sheet on 12-12-1999 alleging that at the time of entering in service he suppressed the facts of being prosecuted for an offence under section 147 and 248 of Indian Penal Code and under section 147, 224, 225, 336, 353 and 452 of Indian Penal Code vide Crime No.284/1978 and 288/1978 respectively, which was unbecoming of a servant of Board.

The charge sheet was assailed before Labour Court under section 31(3) of Madhya Pradesh Industrial Relations Act, 1960.

The Labour Court rejected the same.

However, in an appeal before Industrial Court (C.A.No.43/2007).the charge was quashed by order dated 02-07-2008.

This order was subsequently affirmed in Writ WP 6800.12 Petition No.14931/2008(s) decided on 14-11-2011.

That during pendency of the petition, petitioner retired on attaining age of superannuation w.e.f.30-06-2011.

Thus after decision in Writ Petition the question arose for settlement of retiral dues.

Being not meted out fairly by respondent present petition has been filed seeking direction for settlement of retiral dues.

Respondents No.1 and 2 in their turn have to state that on 26-06-2012 the departmental enquiry has been ordered to be closed and the retiral dues have been settled after effecting due deduction from gratuity of the petitioner.

The petitioner though does not dispute the payment of gratuity and other dues as also the fixation of pay under as per Sixth Pay Commission.

However, he disputes the recovery as also the period taken into consideration for counting the years of service.

It is urged that the same has been taken into consideration from the date of regularization and not from the date of initial appointment as Muster Clerk.

The petition since was directed for settlement of retiral dues which have been substantially settled, the dispute regarding the period from which the service is to be taken into consideration and regarding recovery cannot be gone into in the present petition which is confined to retiral dues.

In case if the petitioner is dissatisfied with the fixation and recovery, he is at liberty WP 6800.12 to approach the authority concern, who would dwell upon the same objectively and expeditiously.

With these observations the petition is finally disposed of.

No costs.

(SANJAY YADAV) sc JUDGE

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