

RAVINDRA KUMAR SHRIVASTAVA

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v.

STATE OF M.P. & ORS.

(Civil Appeal Nos. 5853-5854 of 2008)

SEPTEMBER 4, 2015

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[DIPAK MISRA AND R. BANUMATHI, JJ.]

Service Law – Promotion – From the post of Steno-typist, to the post of Stenographer – By order dated 22.01.2003 – Thereafter promotion was cancelled – Writ petition challenging the cancellation, dismissed – Writ appeal also dismissed – On appeal, held: As per the Government letter No. C-3-7/09/3/49 dated 23.02.1989, the criteria prescribed for promotion to the post of Stenographer are five years experience as a Steno-typist and passing of exam of Shorthand and Typing from State Stenography Typing Council or from any recognized institution – The appellant obtained requisite qualification of passing the Council Examination in the year 2000 and was absorbed on the post of Steno-typist vide order dated 12.04.2002 – Therefore he will become eligible for promotion only in the year 2007 i.e. on completion of period of five years after he was absorbed on the post of Steno-typist – His promotion was rightly cancelled for not having fulfilled the eligibility criteria for promotion – Appeals dismissed.

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CIVILAPPELLATE JURISDICTION : Civil Appeal Nos. 5853-5854 of 2008.

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From the Judgment and Order dated 21.04.2006 and 20.05.2006 of the High Court of M. P., Bench at Gwalior in W. P. (S) No. 420 of 2003 and Writ Appeal No. 24 of 2006

Puneet Jain, Christi Jain, Abhinav Gupta, Ankita Gupta,

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A Pratibha Jain for the Appellant.

Mishra Saurabh, Ankit Kr. Lal, Vanshaja Shukla, B. S. Banthia for the Respondents.

B The Judgment of the Court was delivered by

C **R. BANUMATHI, J.** 1. Challenge in these appeals is the judgment dated 20.05.2006 and 21.04.2006 passed by High Court of Madhya Pradesh at Gwalior dismissing the Writ Appeal No.24 of 2006 and also the Writ Petition No.420 of 2003, thereby upholding the cancellation of departmental promotion of the appellant observing that the appellant has not worked on the post of Steno-typist continuously for a period of five years before departmental promotion and thus does not possess the eligibility criteria for promotion as a Stenographer.

D 2. Appellant was initially appointed as a daily wager in the Forest Department before 1990 and his service was regularized on the post of Lower Division Clerk (LDC) w.e.f. E 17.01.1990. In the year 1992, vide Order No.253 dated 09.12.1992, the appellant was made in charge of Office Steno. Vide Order No.Stha./47 dated 12.04.2002, the Conservator of Forest, Shivpuri Circle directed the absorption of the appellant on the post of Steno-typist and special salary of Rs.125/- was sanctioned to him for doing the work of Steno-typist. Vide Order No./Stha/32 dated F 22.01.2003, the appellant was promoted to the post of Stenographer in the pay scale of Rs.4500-125-7000. The Chief Conservator of Forest passed the Order G No.Prash.Araj/Stha/Fa-2/1169 dated 22.09.2003 cancelling the appointment of appellant on the post of Stenographer holding that promotion was granted to the appellant by ignoring the condition of completing five years of service H as Steno-typist.

3. Aggrieved by the cancellation of his promotion, appellant filed a Writ Petition No.420 of 2003 challenging the order of cancellation and reversion from the post of Stenographer to the post of Steno-typist. The writ petition was dismissed by the Single Judge of the High Court vide order dated 21.04.2006 observing that the appellant was not holding the minimum eligibility criteria for the promotion to the post of Stenographer and therefore his order of promotion was rightly cancelled. Writ Appeal preferred by the appellant also came to be dismissed. The appellant assails the correctness of the dismissal of his writ petition and also the writ appeal in these appeals.

4. We have heard the submission of the learned counsel for the parties at considerable length and perused the material on record.

5. State Government's letter No.C-3-7/09/3/49 dated 23.02.1989 prescribed the criterion for promotion to the post of Stenographer by departmental examination, as five years experience as a Steno-typist and passing of exam of Shorthand and Typing from Madhya Pradesh Stenography Typing Council or from any recognized institution with a speed of hundred words per minute. Admittedly, the appellant passed the said shorthand and typing exam only in the year 2000 and not prior to that. As noticed earlier, the appellant was absorbed on the post of Steno-typist by an order dated 12.04.2002. As per the eligibility criteria prescribed by the Government in letter dated 23.02.1989, the appellant will further become eligible for promotion on the post of Stenographer only in the year 2007 that is on completion of period of five years after he was absorbed on the post of Steno-typist by the said order dated 12.04.2002. Thus the appellant cannot claim the benefit of being posted as in charge 'Office Steno' vide order dated

- A 09.12.1992. When the appellant was working as LDC, merely because he was placed in charge as Office Steno, that will not confer upon him any right to claim that he satisfied the eligibility criteria from that date. Be it noted that the appellant obtained the requisite qualification by passing the Council Examination only in the year 2000 and he was absorbed on the post of Steno-typist vide order dated 12.04.2002; when appellant has passed the Council exam of shorthand only in the year 2000, it is inconceivable as to how the appellant can claim his seniority as Steno-typist before ever he was qualified.

6. Learned counsel for the appellant placed much reliance upon the recommendation of the Divisional Forest Officer dated 01.01.2003 in which DFO has stated that appellant has performed all duties of Stenographer and recommended that he be given seniority of Steno-typist from the year 1998. By perusal of the said recommendation of Divisional Forest Officer dated 01.01.2003, it is seen that the appellant filed an application on 30.12.2002, seeking seniority on the post of Steno-typist and in response to that application, the said letter dated 01.01.2003 seems to have been sent by the Divisional Forest Officer, Shivpuri addressed to Conservator of Forest recommending that appellant has performed all duties of Steno-typist and he may be given seniority from the year 1998. Although such recommendation was made by Divisional Forest Officer to Conservator of Forest, there is no order from the Conservator of Forest to show that the recommendation was accepted. As noticed earlier, the appellant qualified himself in the Council exam only in the year 2000 and he was absorbed on the post of Steno-typist by an order dated 12.04.2002, there is no question of granting seniority to the appellant on the post of Steno-typist from the year 1998.
- H The appellant was eligible to be promoted to the post of

Stenographer only in the year 2007. A

7. The High Court rightly held that the appellant did not satisfy the eligibility criteria of having continuously worked for a period of five years as Steno-typist before being promoted as Stenographer. The impugned orders do not suffer from any infirmity warranting interference exercising jurisdiction under Article 136 of the Constitution of India. Appeals are dismissed. No order as to costs. B

Kalpana K. Tripathy Appeals dismissed. C