

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 252 of 2015**

1. Sant Das Pandey S/o Late Shri Sidhmani Pandey Aged About 68 Years Retired Assistant Engineer, Chhattisgarh State Electricity Board, Kharora Road, Tilda, Post Neora, District Raipur, (Chhattisgarh)

---- Petitioner**Versus**

1. Secretary, M. P. Electricity Board, Shakti Bhawan, Rampur, Jabalpur (Madhya Pradesh)
2. The Joint Secretary, O/o Additional Secretary (P)-I, Shakti Bhawan, Rampur, Jabalpur (Madhya Pradesh)
3. The Executive Director, Raipur Region, Madhya Pradesh Electricity Board, Raipur, (Chhattisgarh)
4. The Superintending Engineer, (RTC) Madhya Pradesh Electricity Board, Raipur, (Chhattisgarh)
5. Shri R.K. Choudhary, Assistant Engineer, Through SE (RTC), Madhya Pradesh Electricity Board, Raipur, (Chhattisgarh)
6. Shri T.R. Bankay Assistant Engineer, Through SE (RTC), Madhya Pradesh Electricity Board, Raipur, (Chhattisgarh)
7. Chhattisgarh State Power Distribution Company Ltd. Through Its Managing Director, Danganiya, Raipur, (Chhattisgarh)
8. Chhattisgarh State Power Holding Company Ltd. Through Its Managing Director, Danganiya, Raipur, (Chhattisgarh)

---- Respondent

For Petitioner	Shri Anand Dadariya, Advocate
For Respondents 1 to 4	Shri K.P.S. Gandhi, Advocate
For Respondents 7 & 8	Shri K.R. Nair, Advocate

**Hon'ble the Chief Justice Shri Navin Sinha &
Hon'ble Shri Justice Prashant Kumar Mishra**

Order On Board**16/10/2015**

1. The present appeal arises from order dated 10-2-2015 passed in WP No.3071 of 2000. The learned Single Judge was of the

opinion that the grievance raised by the Petitioner with regard to supersession was belated and stale and thus did not merit consideration.

2. Learned counsel for the Appellant submits that his juniors were promoted on 30-11-1998. The reason for supersession was certain adverse remarks which were never communicated to the Appellant before supersession. The adverse remarks were communicated on 31.3.1999 only after the promotions were granted to his juniors. The Appellant represented against the same on 15-7-1999. The learned Single Judge erred in holding that no representation had been submitted. The representation dated 15-7-1999 bears an official seal with the date of receiving on 16-7-1999. It was lastly submitted that on the face of it, the illegality in the conduct of the Respondents is apparent from the fact that it was their obligation to communicate the adverse remarks to the Appellant before superseding him, granting promotion to his juniors. The Appellant had a right to persuade the authorities with regard to the adverse entry. What may or may not have followed on the representation is a wholly irrelevant consideration at this stage.
3. Counsel for Respondents No.7 & 8, the successor body of the original Respondents, submit that the learned Single Judge has rightly held that the writ petition was filed one and half year after promotion and was therefore barred by delay and laches, an important consideration in service matters particularly with regard to promotion.
4. Having considered the submissions on behalf of the parties, we

are of the considered opinion that it was the primary obligation of the respondents to have communicated the adverse remarks to the Appellant for facilitating a representation by him before he was superseded. It has rightly been submitted that what may or may not have followed on his representation is a wholly irrelevant issue at this stage.

5. Coming to the facts of the present case his juniors were promoted on 30-11-1998 because of certain adverse remarks against the Appellant, which was communicated to him thereafter on 31-3-1999. He represented with all promptitude on 15-7-1999. The representation bears proof of receipt by an official seal. It is not the case of the Respondents that the seal is fake. Therefore, we presume under Section 114 (e) of the Indian Evidence Act, 1872 that the representation was received by the Respondent but was never considered. It appears the attention of the Single Judge was not invited adequately to the seal on the representation as proof of acknowledgement.
6. It is therefore held that the Respondents shall consider the representation of the Appellant and based on the outcome thereof proceed in accordance with law.
7. It is made clear that in the event that the Respondents find any justification in the representation, the consequences will have to be notional except insofar as the pensionary benefits are concerned in view of his intervening superannuation.
8. It is clarified that the aforesaid observation cannot be construed as an expression of any opinion by us on the merits of the representation filed by the Petitioner, which remains open for

consideration by the respondents in its entirety in their wisdom, but in accordance with law.

9. Let such consideration be done and appropriate reasoned and speaking order be passed within a maximum period of three months from the date of receipt and/or production of certified copy of this order. Any further grievance in respect of the same may be raised before the Authorities as all other issues are premature at this stage.
10. The Writ Appeal is disposed.

Sd/-

(Navin Sinha)

Chief Justice

Sd/-

(Prashant Kumar Mishra)

Judge

Gowri