



**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 7<sup>th</sup> OF APRIL, 2025**

**WRIT PETITION No. 27076 of 2023**

**VISHNU PRASAD**

**Versus**

**THE STATE OF MADHYA PRADESH AND OTHERS**

**Appearance:**

Shri A K Sethi, learned Senior Counsel with Ms. Astha Nagori and Shri Aayush Gupta, learned counsel for the petitioner.

Dr. Amit Bhatia, learned counsel for the respondent/State.

Shri Vindhyavashini Prasad Khare, learned counsel for the respondent No.3 appeared through video conferencing along with Shri Vijay Gulani, learned counsel for the respondent No.3.

**ORDER**

1] This petition has been filed by the petitioner seeking following reliefs:

“(A) To quash the order dated 20.06.2023 passed by Respondent no.1 and consequently direct the respondents to open the sealed cover of DPC meeting held on 09.02.2015 and to promote the petitioner on the post of Additional Registrar w.e.f 19.03.2015 with all consequential benefits on the basis of such recommendations.

(B) To issue amended PPO and award interest @6% on the amount of pension, gratuity and other retiral dues.

(C) To direct the respondents to pay arrears of 7 pay commission along with interest to the petitioner.

(D) To award the cost of the present petition in favour of the petitioner and against the respondents.”



2] The petitioner is aggrieved by the order dated 20.06.2023, whereby the petitioner's representation regarding his promotion has been rejected on the ground that two criminal cases are pending against the petitioner i.e., criminal case No.411/13 and criminal case No.346/14, which, according to the respondent, were pending at the time of DPC.

3] Learned counsel for the petitioner has submitted that admittedly, initially a DPC took place on 09.03.2015, at that time sealed cover procedure was adopted on account of the departmental enquiry and the criminal cases i.e., case No.7/07 and case No.5/08 pending against the petitioner. However, subsequently the petitioner has been acquitted in both the aforesaid criminal cases vide judgment dated 30.12.2022 (Ex.P-15). Whereas, the other two cases viz., **criminal cases lodged at Crime Nos.411/13 and 346/14 on 21.09.2021 and 01.07.2022** respectively, the charge-sheet was not filed at the time of DPC, thus, it cannot be said that the aforesaid criminal cases were pending against the petitioner at the time of DPC, however, it is admitted that now the charge-sheets have been filed and the criminal cases viz., case No.6/21 and 6/22 are pending.

4] Learned counsel for the petitioner further submits that the respondent ought to have considered the case of the petitioner on the date when the DPC took place, taking into account the fact that the petitioner has already been acquitted in two criminal cases i.e. case Nos.7/07 and 5/08, and also in the departmental enquiry.

5] Reply to the petition has also been filed wherein the respondent has opposed the petition in which the grounds taken by the respondent to reject the petitioner's representation in the impugned order has been reproduced and reference to subsequent cases i.e. ST 6/21 and 6/22 has also been made.



6] Heard. Having considered the rival submissions made by the parties and on perusal of the record, it is apparent that the petitioner's case was kept in sealed cover when the DPC took place in the year 2015, wherein following observation has been made:-

“अनारक्षित प्रवर्ग की प्रतीक्षा सूची के लिये समेकित पैनल के सरल क्रं 04 (वरिष्ठता सूची क्रं 04) पर अंकित अधिकारी श्री विष्णु प्रसाद मारन के विरुद्ध नियम 14 के अंतर्गत अनुशासनात्मक कार्यवाही प्रचलन में होने एवं अपराधिक प्रकरण में चालान प्रस्तुति के संबंध में प्रकरण न्यायालय में विचाराधीन होने के कारण समिति की अनुशंसा बंद लिफाफा में रखी गयी ।”

7] Admittedly, in the criminal cases which have been referred to in the aforesaid para, the petitioner has already been acquitted by the judgment dated 30.12.2022 (Ex.P-15) whereas in the departmental enquiry also the petitioner has been exonerated.

8] This Court is of the considered opinion that the criminal cases No.411/2013 and 346/2014, which were pending at the time of DPC but in those cases, the charge sheet was not filed, could not have been taken into consideration to deny the promotion to the petitioner, which is also the purport of the circular dated 30/06/1994 as also the circular dated 29/11/2024, the relevant extract of the circular dated 29/11/2024 reads as under:-

“सामान्य प्रशासन विभाग के संदर्भित ज्ञापन द्वारा शासकीय सेवकों के लिए लम्बित अनुशासनिक कार्यवाही के दौरान उनकी पदोन्नति, स्थायीकरण आदि की प्रक्रिया के सम्बन्ध में मार्गदर्शी सिद्धांत निर्धारित किये गये हैं। उपरोक्त परिपत्र के पैरा-2(1) में निम्नलिखित प्रकरणों में विभागीय पदोन्नति समिति के निष्कर्ष मोहरबंद लिफाफे में रखे जाने के निर्देश हैं:-

“यहाँ यह स्पष्ट किया जाता है नीचे उल्लेखित बंद लिफाफे की प्रक्रिया केवल ऐसे शासकीय सेवकों के लिए अपनाई जाएगी, जिनके विरुद्ध या तो अनुशासनात्मक कार्यवाही के अंतर्गत आरोप पत्र वास्तविक रूप से जारी कर दिया गया हो और या जिनके विरुद्ध अभियोजन पत्र वास्तव में अदालत में पेश हो गया हो।”



9] In such circumstances, the order dated 20/06/2023, whereby the respondents have considered the other two criminal cases at crime No.411/2013 and 346/2014, in which the charge sheet was not filed at the time of DPC, could not have been considered for rejecting the petitioner's representation. This court is of the considered opinion that the aforesaid cases, in which the charge sheet was filed subsequently, could have been considered only in respect of further promotion of the petitioner had it occurred, after filing of the charge sheets. However, as he has already retired, the aforesaid question does not arise.

10] In such circumstances, this Court is of the considered opinion that respondents ought to have considered the case of the petitioner as on 09.03.2015, and ought to have opened the sealed cover in light of the fact that in the criminal cases referred therein, he has been acquitted, and in the departmental enquiry also he has been exonerated.

11] In view of the same, the petition stands allowed, and the impugned order dated 20.06.2023 is hereby quashed. The respondents are directed to open the sealed cover envelop and promote the petitioner w.e.f. 19.03.2015. Since the petitioner has already retired after attaining the age of superannuation, he shall be given all the consequential benefits from 31.03.2017, within a further period of 4 months.

12] Accordingly, writ petition stands *allowed*.

*Sd/-*

(SUBODH ABHYANKAR)  
JUDGE

N.R.