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

**BEFORE
HON'BLE SHRI JUSTICE RAVI MALIMATH,
CHIEF JUSTICE**

**&
HON'BLE SHRI JUSTICE VISHAL MISHRA
ON THE 18th OF JULY, 2022**

WRIT PETITION No. 25515 of 2021

Between:-

1. **SHRI PREMLAL BASORE S/O LATE SHRI MAHESH PRASAD, AGED ABOUT 48 YEARS, OCCUPATION: ASSISTANT GRADE III (REVERTED TO THE POST OF PEON) R/O TIKURIYA TOLA, SATNA (MADHYA PRADESH)**
2. **SHRI DEEP KUMAR PANDEY S/O LATE THAKUR PRASAD PANDEY, OCCUPATION: ASSISTANT GRADE III (REVERTED TO THE. POST OF PEON) R/O RAMPURBAGHELAN, DISTRICT REWA (MADHYA PRADESH)**

.....PETITIONERS

(BY MS. ANJALI SHRIVASTAVA - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY, LAW AND LEGISLATIVE AFFAIRS DEPARTMENT, VALLABH BHAWAN, MANTRALAYA, BHOPAL (MADHYA PRADESH)**
2. **HIGH COURT OF MADHYA PRADESH THROUGH REGISTRAR GENERAL, HIGH COURT OF MADHYA PRADESH, JABALPUR (MADHYA PRADESH)**
3. **DISTRICT AND SESSIONS JUDGE, SATNA DISTRICT SATNA (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI SUYASH THAKUR - GOVERNMENT ADVOCATE FOR RESPONDENT NO.1 AND SHRI MOHD. NAVED - ADVOCATE FOR RESPONDENTS NO.2 AND 3)

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This petition coming on for admission this day, Hon'ble Shri Justice Ravi Malimath, Chief Justice passed the following:

ORDER

The petitioners were initially appointed as peon in the District Court, Satna on 08.01.2010 and 16.11.2000 respectively. Vide order dated 25.06.2015, they were promoted to the post of Assistant Grade - III with a condition that they should obtain a certificate of Hindi typing from a recognised Board and one year Computer Diploma from a UGC certified institute, within a period of two years. Since the same was not done, they were reverted to the post of peon by the impugned order dated 29.06.2020. Aggrieved by the same, appeals were filed, which were dismissed on 22.10.2021. Questioning the same, the instant petition is filed.

Ms. Anjali Shrivastava, learned counsel for petitioners contends that the order of reversion is bad in law. She places reliance on the Government notification dated 01.04.2003 which is produced as Annexure P/4 to the petition. A reading of the same would indicate that there is an exemption granted to the persons who are aged 45 years or more. That in similar circumstances, the learned Single Judge of this Court, Bench at Indore in Writ Petition No.17864 of 2019 - Mahesh Giri Vs. State of M.P. and other connected petitions, vide judgment dated 16.01.2020 has held that the promotion is to be reckoned from the date of attaining the age of 45 years and therefore, reversed the order of reversion. It is pleaded that the benefit granted to the petitioners therein be extended to the petitioners herein also.

The same is disputed by the learned counsel for respondents.

On hearing learned counsels, we do not find any merit in the petition. The order of promotion granted to the petitioners is quite clear. It indicates that they

should obtain a certificate in Hindi typing and one year Diploma in computer within a period of two years from the date of promotion. The promotion was effected in the year 2015. Therefore the certificates should have been obtained within the year 2017. Having failed to do so, they were not entitled to continue in the promoted posts. Therefore, they have been rightly reverted back to their old position.

The reliance placed on the Government notification dated 01.04.2003, in our considered view, may be misplaced. The notification itself clearly reiterates the position with regard to passing of these two exams in the event of a promotion. However, the last sentence of the notification would indicate that the persons aged 45 years and above would be exempted from such a condition. Therefore, the reading of the same would indicate that it is applicable only to those persons who have crossed the age of 45 years as on the date of promotion. It cannot be read otherwise. So far as the judgment of the learned Single Judge is concerned, the facts therein are quite different. The petitioners therein also did not clear the relevant exam. They were reverted after a period of 12 years. Keeping in mind the fact that they have continued to work for a period of 12 years and also in pursuance of the interim order granted by the Court, the learned Single Judge on the basis of equity came to the conclusion that the date of promotion should be reckoned as when they attained the age of 45 years.

The facts involved in the present case are quite different. The promotion was granted in 2015, which means that they should have cleared the exam within the year 2017. Within a period of 3 years, they have been reverted. Therefore, there cannot be a comparison so far as the facts are concerned. Yet another contention being advanced is by placing reliance on Annexure at page 24 of this petition, which is a communication addressed by the petitioner No.2. It is dated

31.01.2018. It is written to the authority saying that he requires a transfer to a place where he can obtain the due certificates. The same would clearly indicate that the intention of the petitioners was to clear the exam even in the year 2018, namely after a lapse of three years' period. Therefore, the contention being advanced, in our considered view, runs contrary to the case of the petitioners as could be seen from the letter dated 31.01.2018. We may also hasten to add that even as on date, both the petitioners have not cleared the exam. The situation would have been different if they had cleared the exam at least at this point of time. Having failed to clear the exam even after such a long lapse of time, we do not find that equity could be extended to their favour. Hence, we do not find any good ground to interfere.

The writ petition is dismissed.

(RAVI MALIMATH)
CHIEF JUSTICE

(VISHAL MISHRA)
JUDGE