

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6914 OF 2015

ACHHELAL JHARIA

APPELLANT

VERSUS

UNION OF INDIA & ORS.

RESPONDENTS

ORDER

1. The appellant is aggrieved by the judgment dated 30th July, 2012 passed by the High Court Madhya Pradesh at Jabalpur in a writ petition¹ filed by him wherein he had assailed an Order dated 23rd January, 2007 passed by the Central Administrative Tribunal, Jabalpur Bench, Jabalpur². By the impugned order, the Tribunal dismissed the Original Application filed by the appellant wherein a direction was sought to be issued to the respondents to treat him as a confirmed Upper Divisional Clerk from the date his juniors were confirmed and provide him all consequential benefits pursuant to such a promotion, based on his corrected seniority on the post of Assistant/Head Clerk, Office Superintendent, Establishment and Accounts Clerk, for particular blocks of years.

2. The *lietmotif* of the arguments advanced by Mr. Ardhendumauli Kumar Prasad, learned Senior Counsel appearing for the appellant is that the High

1 Writ Petition No.8145 of 2007
2 For short 'the Tribunal'

Court failed to appreciate that there is no adverse remark in the annual report in the Confidential Roll of the appellant except for the ACR for the year 1979 and despite a representation made by the appellant against the said ACR, the same has not been decided.

3. We have enquired from learned Senior counsel as to whether, the appellant took any steps to challenge non-consideration of the representation made by him in respect of the ACR for the year 1979 by the respondents or even the ACR for the year 1979 itself, particularly since it is not in dispute that in the intervening period, the appellant had approached the Tribunal on five occasions for different reliefs. Reply to the query is in the negative. In other words, the appellant neither challenged the adverse observations made against him by the respondents in the ACR for the 1979, nor did he question the alleged failure on the part of the respondents to decide his representation dated 03rd June, 1980 against the adverse findings recorded in his ACR for the year 1979.

4. It is pertinent to note that the aforesaid observation has also been made by the Division Bench of the High Court which has recorded that when called upon to show whether the appellant had questioned the adverse findings recorded in his ACR in the year 1979 in any of the Original Applications filed by him, learned counsel for the appellant was unable to point out any such averment recorded in the Original Applications. The Division Bench also noted that the said issue was raised for the first time in the writ petition filed in the year 2007 relating to recording of an ACR with adverse observations for the year 1979. In

view of such a belated challenge, the High Court declined to entertain such a prayer particularly since the appellant had superannuated on 30th November, 2005.

5. In this view of the matter, we do not find any error in the findings recorded by the Division Bench in the impugned judgment. The appellant could not be permitted to take up fresh grounds at such a belated stage relating to the adverse findings recorded against him in an ACR for the year 1979 against which he admittedly submitted a representation on 03rd June, 1980, but did not pursue the same as per law.

6. The present appeal is accordingly, dismissed as meritless while maintaining the impugned judgment.

7. No order as to costs.

.....J.
(HIMA KOHLI)

.....J.
(SANDEEP MEHTA)

NEW DELHI
21st AUGUST, 2024
GA

ITEM NO.106

COURT NO.9

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 6914/2015

ACHHELAL JHARIA

APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

Date : 21-08-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Appellant(s) Mr. Ardhendumauli Kumar Prasad, Sr. Adv.
Mr. Nitesh Ranjan, AOR
Mr. Deepesh Singh, Adv.
Mr. Akshay Kumar, Adv.
Mr. Parijat Chandan, Adv.
Mr. Amritesh Raj, Adv.
Mr. Neelaksh, Adv.
Ms. Ananya Sahu, Adv.
Mr. Mukul Agarwal, Adv.

For Respondent(s) Mr. R.Balasubramanian, Sr. Adv.
Mr. Ishaan Sharma, Adv.
Mr. Ashok Panigrahi, Adv.
Mr. Annirudh Sharma-ii, Adv.
Dr. N. Visakamurthy, AOR

Mrs. Anil Katiyar, AOR

UPON hearing the counsel the court made the following
O R D E R

1. The appeal is dismissed in terms of the signed order.
2. Pending application(s), if any, are disposed of.

(Nand Kishor)
Court Master (NSH)

(Geeta Ahuja)
Assistant Registrar-cum-PS

(Signed Order is placed on the file)