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

**BEFORE
HON'BLE SHRI JUSTICE VIVEK AGARWAL**

ON THE 4th OF APRIL, 2024

WRIT PETITION No. 3830 of 2015

BETWEEN:-

**MANAGING DIRECTOR M.P. STATE FOREST
DEVELOPMENT CORPORATION 5TH FLOOR MALVIYA
NAGAR BHOPAL (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI SANJAY VERMA - ADVOCATE)

AND

**M.P. STATE FOREST DEVELOPMENT CORPORATION
EMPLOYEES UNION GENERAL SECRETARY MALVIYA
NAGAR BHOPAL (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI AKASH CHOUDHURY - ADVOCATE)

.....
*This petition coming on for admission this day, the court passed the
following:*

ORDER

This writ petition under Article 227 of the Constitution of India is filed by the Petitioner/Managing Director, M.P.State Forest Development Corporation, Bhopal being aggrieved of award dated 30.8.2014 passed by learned Labour Court No.1, Bhopal in Case No.19/03-I.D.Reference instituted on 16.1.2003 on two grounds; firstly, whether the issue of promotion will fall within the definition of a dispute permissible under Section 2-A of the Industrial Disputes Act, 1947 and secondly, whether the issue of promotion will be covered under Section 2(k) of the Industrial Disputes Act, 1947.

It is submitted by learned counsel for the petitioner that Section 2-A of

the Industrial Disputes Act, 1947 deals with only four exigencies and they are retrenchment, termination, discharge and dismissal. Since the petitioner will not fall in any of the aforesaid exigencies mentioned in Section 2-A of the Industrial Disputes Act, 1947, therefore, the claim before the Labour Court was not maintainable either individually or through representative Union.

Reading the language of Section 2(k) of the Industrial Disputes Act, 1947, it is submitted by learned counsel for the petitioner that Section 2(k) deals with "industrial dispute", which means that any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

Learned counsel for the petitioner submits that since the promotion being not a dispute or difference as defined in Section 2(k) of the Industrial Disputes Act, 1947, therefore, the matter could not have been adjudicated by the Labour Court as an Industrial Dispute.

Learned counsel for the petitioner places reliance on the decision of the Hon'ble Bombay High Court in **Rekha Vasant Hundekari versus Navin Knitwear & Yarn Winding & Others 1997 (III) L.L.J (Supp) 731** wherein it is held that the prayer of employee in essence amounted to claim for promotion, which was beyond jurisdiction of the Labour Court as it was not an industrial matter falling with Schedule-I and Schedule-III of the Industrial Disputes Act, 1947.

Learned counsel for the respondent places reliance on a decision of the Apex Court in **J.H.Jadhav versus Forbes Gokak Limited (2005) 3 SCC**

202 to contend that the matter of promotion will be covered under Section 2(k) of the Industrial Disputes Act, 1947. He also places reliance on a decision of the Apex Court in **Rajasthan State Road Transport Corporation & Another versus Krishna Kant & Others (1995) 5 SCC 75.**

I have heard learned counsel for the parties and gone through the material available on record.

It is evident that learned Labour Court has categorically mentioned in Paragraph No.8 of its award that Item No.6 of Schedule-II of the Industrial Disputes Act, 1947 includes a question of seniority. Even otherwise, a plain reading of Section 2(k) of the Industrial Disputes Act, 1947 reveals that it covers the dispute or difference between workmen and workmen having its larger implication between employers and workmen, which finds support from the law laid down by the Apex Court in **J.H.Jadhav versus Forbes Gokak Limited (supra).**

In **Rajasthan State Road Transport Corporation & Another versus Krishna Kant & Others (supra)**, the Apex Court has held that the disputes not covered by Section 2(k) or Section 2-A of the Industrial Disputes Act, 1947 can be determined by the Civil Court or by the Arbitration but the disputes relating to the rights or obligations created under the Industrial Disputes Act, 1947 can be adjudicated only by the Forums created by the Industrial Disputes Act, 1947.

When the aforesaid aspect is taken into consideration and is examined in the light of the definition given in Section 2(k) of the Industrial Disputes Act, 1947 then there is no iota of doubt that the matter of promotion and seniority could have been adjudicated between the two employees by Labour Court under Section 2(k) of the Industrial Disputes Act, 1947 as it is an industrial

dispute under Section 2(k) of the Industrial Disputes Act, 1947.

Accordingly, this writ petition fails and is dismissed.

(VIVEK AGARWAL)
JUDGE

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