

Ramesh Kumar Moolchandani Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Nov-19-2012

Appellant : Ramesh Kumar Moolchandani

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Smt. Sudha Gautam

Judgement :

Ramesh Kumar Moolchandani versus State of MP and otheRs.19.11.2012.

Smt.

Sudha Gautam, learned counsel for the petitioner.

Shri Rajesh Tiwari, Government Advocate, for the State.

Claiming the benefit of certain directions issued on 5.4.2010, in W.P.No.4114/2010(s).petitioner has filed this writ petition and it is stated that his claim be examined in accordance with the order passed by a Division Bench of this Court on 17.7.2007 in W.P.No.7854/2006(s) and benefit extended.

Smt.

Sudha Gautam, learned counsel, submits that claim of the petitioner is identical to the one already decided by this Court as indicated hereinabove and, therefore, similar benefit cannot be denied to the petitioner.

Shri Rajesh Tiwari, learned Government Advocate, invites my attention to the observations made by the Division Bench in its order passed on 17.7.2007, in W.P.No.7854/2006(s) i.e para- 35 (h) and submits that as the Division Bench has restricted the benefit to be granted only to such candidates, who have approached the Court earlier, as such the benefit cannot be granted to the present petitioner.

Smt.

Sudha Gautam, learned counsel, submits that such benefit cannot be denied to the petitioner and she invites my attention to certain orders passed by the Division Bench on 19.2.2008, in W.A.No.1880/2007, and submits that when a case is decided, all persons similarly situated are entitled to the benefits 2 Ramesh Kumar Moolchandani versus State of MP and otheRs.and the directions issued by the Division Bench in para-35(h) in W.P.No.7854/2006(s) has been held to be not proper by the subsequent Division Bench in its order passed on 19.2.2008 in W.A.No.1880/2007.

Having heard learned counsel for the parties and on perusal of the records, it is clear that claim of many similarly situated employees have been decided and the only question not warranting consideration is as to whether the petitioner's claim can also be directed to be considered on similar lines and what would be the effect of the observations made by the Division Bench in para-35(h) of the order with regard to restricting only such employees who have approached this Court.

The said question has already been considered and by referring to various judgments rendered by the Supreme Court, it has been held by the Division Bench that only because the employee has not approached the Court in time, the benefit legally accruing to him cannot be denied.

Keeping in view the subsequent order passed on 19.2.2008 in the case of Sandeep Kumar Richhariya versus State of M.P.& OtheRs.in W.A.No.1880/2007, the objections raised by Shri Rajesh Tiwari cannot be upheld by this Court.

The petitioner is also entitled to such consideration, for grant of benefit and a decision taken.

In view of the above, the petition is allowed in part.

Respondents are directed to examine the case of the petitioner also 3 Ramesh Kumar Moolchandani versus State of MP and otheRs.in the light of the order passed by the Division Bench on 17.7.2007, in W.P.No.7854/2006(s).and on 5.4.2010, in W.P.No.4114/2010(s).and decide it by a speaking order within a period of three months from the date of receipt of certified copy of this order.

With the aforesaid, the petition stands disposed of.

Certified Copy as per rules.

(RAJENDRA MENON) JUDGE Aks/-

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