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Court : Madhya Pradesh

Decided On : Sep-12-2012

Appellant : Virendra Kumar

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Narendra Sharma

Judgement :

W.P.No.14983/2012 12.09.2012 Shri Narendra Sharma, learned counsel for the petitioner.

Shri S.M.Lal, learned Panel Lawyer for respondents, on advance copy.

The petitioner claims grant of regular pay scale from the initial date of appointment.

The benefit is claimed by the petitioner in the light of the order passed by the Division Bench at Indore Bench of this Court, in W.A.No.346/2008 (Smt.

Usha Ranawat versus State of M.P.and others).dated 18-12-2008.

By the aforesaid order passed, more than 25 writ appeals claiming similar benefits were decided and it was directed that the benefit of pay fixation in the regular pay scale from the initial date of appointment shall be made to the petitioners therein.

In fact the Division Bench has upheld the orders passed by the learned Single Judge in various cases and while deciding the writ appeals in para-19 the following directions were issued by the Division Bench: 19.

In view of the foregoing discussion, the appeal filed by writ petitions succeeds and is allowed whereas writ appeals filed by the State are dismissed in limine.

Impugned order of Single Bench is modified to the extent that appellant (writ petitioner) in addition to all benefits awarded by the Single Judge in the impugned order would also be entitled to claim arrears of his salary from the date of his initial appointment.

In other words, the appellant will be entitled to claim the benefit of his pay fixation i.e.regular pay scale from the date of his initiate appointment.

Let the calculation be made by respondents in the light of appellants date of initial appointment and accordingly, the arrears payable to appellant towards his salary be paid to him/her in each case, which are subject matter of these appeals within a period of 6 months from the date of this order.

It is seen that the point involved in this petition has already been put to rest by the Tribunal long back in Madhukant Yadu versus State of Madhya Pradesh, in O.A.No.2745/1989, decided on 24.08.1992.

Said decision was assailed by the State Government by preferring an SLP before the Apex Court, which was registered as SLP No.6892/1993 and the same has been dismissed on 03.01.1999.

Later on, the Principal Seat as well as the Benches at Gwalior and Indore have decided hundreds of petitions in the light of the said decision and, therefore, there is no reason why petitioners can be deprived of the benefit, which was extended in the case of Madhukant Yadu to similarly other co-employees.

This Court also in a Division Bench decision in the case of State of MP and others versus Beni Singh Rathod, W.P.No.648/2002, decided on 01.05.2002 has also affirmed the aforesaid decision, which is also applicable in this petition.

At this juncture, I may profitably refer to the Single Bench decision of this Court in the case of Rajendra Kumar Pande and five others versus State of M.P.and otheRs.in W.P.8928/2003, decided on 21.04.2004, wherein the decision of Madhukant Yadu which was affirmed by the Supreme Court, was followed and all the objections which were raised by the respondents were not accepted.

In view of the above and the judgment delivered in the case as referred to hereinabove, this petition is allowed.

The respondents are directed to extend the benefit of regular scale of pay granting the benefit of notional pay fixation since initial date of appointment of the petitioner within a period of three months from the date of communication of this order.

Even though this Court had been following the law laid down in the case of Smt.

Usha Ranawat (supra).in various cases, and directed only for notional pay fixation and had refused arrears of pay on the ground that the petitioners have approached this Court belatedly.

It is seen from the records that one such order passed by this Court in Writ Petition No.9564/2010 (Smt.

Saroj Shah versus State of MP) which was assailed before a Division Bench of this Court in an intra Court appeal, the learned Division Bench vide order dated 28.07.2010, passed in W.A.No.744/2010, after taking note of the principles laid down in the case of Bir Bajrang Kumar versus State of Bihar and otheRs.AIR 198.SC 1345.has held that similar benefit could not be denied to the petitioners and has directed for extending similar benefits to the petitioneRs.as has been ordered in the case of Smt.

Usha Ranawat (supra).in the matter of payment of arrears also.

Keeping in view the aforesaid, respondents are directed to extend to the petitioner the benefit of pay fixation as has been extended in the case of Smt.

Usha Ranawat (supra).with regard to payment of arrears and other benefits also.

However, if on examination respondents find that for any reason whatsoever, the benefit cannot be extended, they shall record such reasons and communicate it to the petitioner.

The petition stands allowed and disposed of with the aforesaid.

Certified copy as per rules.

(K.K.Trivedi) Judge A.Praj.

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