

Vikram Singh Bhati and anr. Vs. State of M.P. and anr.

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Court : Madhya Pradesh

Decided On : Jul-16-2004

Reported in : [2005(104)FLR765]

Judge : S.K. Seth, J.

Appellant : Vikram Singh Bhati and anr.

Respondent : State of M.P. and anr.

Judgement :

S.K. Seth, J.

1. This order shall govern disposal of Writ Petition Nos. 7456/2003 and 7713/2003 as all the writ petitions involve identical issues of law and facts.

2. For the sake of convenience, facts of the present case may be noticed. Petitioner No. 1 Vikram Singh Bhati was given appointment vide order dated 10.3.1989 on the vacant post of Peon in the pay-scale of Rs. 725-900/-. The initial appointment was for a period of 89 days. Petitioner No. 2 Kailash Singh Kachhawa was given appointment vide order dated 2.5.1990 on the post of Peon on the contingency establishment as per the rate fixed by the Collector. His appointment was also for 89 days. The said appointment was renewed from time to time. By order dated 12.8.1992, petitioner No. 1 was given appointment on the contingency establishment and it was mentioned in the order that he would be entitled to count

his seniority from 10.8.1992. A similar order was also passed in favour of the petitioner No. 2. By order dated 9.10.1995, both the petitioners were given regular pay-scale sanctioned for the post of Peon on the work-charge and contingency establishment and they were declared as members of the work charge and contingency establishment service. The pay scale sanctioned for the post of peon at that point of time was Rs. 750-945/-. By order dated 21.6.1996, the earlier order dated 9.10.1995 was cancelled and it was directed that petitioners would continue to work on the post of Peon on payment of daily wages. Thereafter, the services of the petitioners were terminated by order dated 30.11.1999. It was challenged before the M.P. State Administrative Tribunal, Indore Bench in O.A. No. 1853/99. The said O.A. was allowed in terms of the order passed by the Tribunal on 29.2.2000 in the case of S.K. Ahir and 8 Ors. v. The State of M.P. and Ors. In compliance of the order passed by the Tribunal, the matter was examined and scrutinized by the Screening Committee and thereafter by the order impugned dated 20.4.2000, the services of the petitioner were dismissed.

3. Learned Counsel for the petitioners submitted that having worked on the post of Peon for more than 5 years, petitioners had become regular members of the work-charge and contingency establishment in terms of the rules which are known as the M.P. School Education Department Contingency Paid Employees (Recruitment and Conditions of Service) Rules, 1987. Learned Counsel for the petitioners also submitted that a similar question had come up for consideration of the Court in a bunch of writ petitions decided on 19.2.2004. The leading order has been given in W.P. No. 7062/2003 (Rajendra Kumar Dalal v. State of Madhya Pradesh and Ors.). Learned Counsel appearing for the respondents were unable to distinguish the case of the petitioners. Undisputedly, petitioners were given regular appointment on the contingency establishment in the year 1992 and after completion of three years successful service, regular pay-scale sanctioned for the post of Peon on the work-charge and contingency establishment was also given to the petitioners. Respondents were wrong in treating the petitioners as daily wagers.

4. Following the decision given in W.P. No. 7062/2003, this writ petition is allowed. The order impugned is hereby quashed. Since the petitioners are in service by

virtue of the interim order passed by the Tribunal, therefore, respondents are directed to refix their salary at the proper stage in the sanctioned pay-scale which is prevalent for the post of Peon on the work-charge and contingency establishment. If any of the petitioners is out of employment then respondents shall reinstate the concerned petitioner in service and fix the salary at the proper stage in the sanctioned pay-scale which is prevalent for the post of Peon on the, work-charge and contingency establishment. However, it is made clear that upon reinstatement, the concerned petitioner shall not be entitled to any arrears of salary on the principle of 'no work no pay'. Respondents are also directed to carry out the whole exercise within a period of three months from the date of communication of the orders. In case upon pay fixation at the proper stage petitioners are entitled to receive any difference of salary, the amount shall be paid to the petitioners within a period of there months, failing which it shall carry interest at the rate of 12%. Writ petition is accordingly disposed of. No order as to costs. Let copy of this order be retained in the connected writ petitions.