

(2012) 04 MP CK 0116
In the Madhya Pradesh High Court
Case No : W.A. No. 189 of 2012

A	Vs	APPELLANT
b		RESPONDENT

Date of Decision : 09-04-2012

Acts Referred:

Citation : (2012) 04 MP CK 0116

Hon'ble Judges : S.K. Gangele, J;Brij Kishore Dube, J

Bench : Division Bench

Advocate : Raghvendra Dixit, Government for the State, for the Appellant;

Judgement

1. Heard. This writ appeal has been filed by the appellants/State against the order dated 14-12-2011, passed by the learned Single Judge in W.P.No.8243/2011(s).

2. The respondent employee filed a petition before the writ Court claiming pay scale of the post on which he has been classified as permanent employee. He pleaded that he was classified as permanent employees as per the statutory provisions of M.P. Standing Standard Orders, however, he had not been paid the pay scale of the post on which he was classified. The learned Single Judge after considering the various judgments of this Court has held that the respondent employee is eligible to receive the pay scale after his classification.

3. The main question for consideration in this appeal is that whether after classification an employee is entitled to receive salary of a regular employee. This point has already been decided by the Single Bench of this Court in the case of State of Madhya Pradesh and Others Vs. Hariram and Others, and the Division Bench has also confirmed the ratio of the decision in the case of Bhashkar Sharma Vs. State of M.P. & Ors, W.P.No.3657/2008 (S), decided on 12-1-2009. Thereafter an SLP (Civil) CC 9289/2010 has been filed before the Hon''ble Supreme Court, that has also been dismissed.

4. Recently, before the Division Bench of Main Seat at Jabalpur, the State

Government has also filed bunch of writ appeals arising out of the same issue, which have also been dismissed vide order dated 1-11-2011. In one of the Writ Appeals i.e. W.A.No.1266/2010 (State of M.P. & Others Vs. Madan Singh Kushwah), the Division Bench of this Court has held as under :-

We find that the consideration of the consequences flowing from the unchallenged orders of classification in the impugned order passed by the learned Single Judge is based upon a decision of the learned Single Judge of this Court in the case of State of Madhya Pradesh and Others Vs. Hariram and Others, Although in that decision the case reported in Gangadhar Pillai Vs. Siemens Ltd. (supra) has not been considered, but the case of M.P. State Agro Industries Development Corporation (supra) has been considered. We do not find any such difference in the aforesaid two Supreme Court decision which would call for a departure from the view taken by the learned Single Judge in the case of Hariram and others (supra).

Normally if an employee is classified as a permanent employee against a particular post, he should be entitled to all the benefits of that post unless, as held by the Supreme Court, such benefits are excluded either by contract between the employer and employee or by operation of some law. No such contractual or legal restriction has been brought to our notice.

Whether an employee comes by way of normal recruitment process or through the process of classification, the fact remains that both i.e. the normally recruited employee and a classified employee work on the same post and perform the same duties. It cannot be held that the classification has any less effect or force as compared to the normal process of appointment, because the classification is also based upon the law in the form of Standing Orders and as such both employees who have been brought into service through either of the two processes permitted by law, as permanent employees against a particular post, should be entitled to the same benefits. Taking a contrary view would mean that the employees inducted through classification process would be saddled with an undesirable disability throughout their service, as compared to other employees which may tantamount to violation of the principle of "equal pay for equal work". Our view finds support from another Division Bench decision of this Court reported in the case of State of Madhya Pradesh and Others Vs. Ram Prakash Sharma and Others,

For the aforementioned reasons, we do not find any good ground to interfere with the order passed by the learned Single Judge.

Accordingly, the writ appeals are dismissed.

5. In this view of the matter, we do not find any merit in this writ appeal.

6. It is informed by the learned Government Advocate that similar matters are pending before the Hon''ble Supreme Court for adjudication. Copies of the orders passed by the Hon''ble Supreme Court in

S.L.P.Nos.3256/2012,17998/2010,17875/2011,13278/ 2011have also been filed by the appellants/State along with the appeal. Hence, execution of the order of learned Single Judge would be subject to the order that may be passed by the Hon"ble Supreme Court in similar cases. The appeal is disposed of accordingly.