
(2020) 02 MP CK 0013
In the Madhya Pradesh High Court
Case No : Writ Petition No. 5737 Of 2018

Anil Kumar Sharma

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 04-02-2020

Acts Referred:

Citation : (2020) 02 MP CK 0013

Hon'ble Judges : Vandana Kasrekar, J

Bench : Single Bench

Advocate : Anand Agrawal, Nilesh Jagtap

Final Decision : Allowed

Judgement

1 The petitioner has filed the present writ petition challenging the order dated 11.1.2018 (Annexure-P/1) and order dated 7.2.2018 passed by respondent No.2, by which benefit of second and third time bound pay-scale, which were granted to the petitioner, has been withdrawn.

2 The petitioner was initially appointed on the post of Lower Division Clerk vide order dated 24.4.1980 (Annexure-P/3) and promoted on the post of Assistant Grade II and after completion of 20 years of service, he was granted the benefit of second time bound pay-scale vide order dated 16.12.2014 and third time bound scale vide order dated 23.1.2016. However, without issuance of any notice or giving any opportunity of hearing to the petitioner, the respondent No.2 has issued the orders dated 11.1.2018 and 7.2.2018, by which the benefits of second time bound pay-scales, which were granted to the petitioner, have been withdrawn on the ground that the petitioner does not fulfill the eligibility criteria for promotion on the higher post. Being aggrieved by that order, the petitioner has filed the present writ petition.

3 It has been stated that, the impugned order is illegal, arbitrary and is violative of principles of natural justice. That, no notice or any opportunity of hearing was

given to the petitioner before passing the impugned order. It is further submitted that the petitioner is working on the post of Assistant Grade-II and the next promotional post is Accountant/Establishment Clerk, for which only three years experience is required, which the petitioner fulfills. That, the benefit of time bound pay-scales were given to the petitioner after screening his case by the screening Committee, therefore, the same could not have been withdrawn.

4 Learned counsel for the respondents have filed their reply stating that the petitioner does not possess requisite eligibility for the promotion in order to claim the benefits of second and third time bound pay-scales. The respondent has further stated that due to inadvertent, the benefit of second time bound pay-scale was granted to the petitioner vide order dated 16.12.2014 (Annexure P/3) and third time bound scale granted vide order dated 23.1.2014 (Annexure P/5). As per clause-4 of the circular dated 24.01.2008 issued by the finance department for grant of benefits of time bound pay-scales, employee should possess requisite eligibility for promotion in order to claim benefit of second time bound pay-scale. The eligibility criteria for promotion from the post of Assistant Grade-III to Assistant Grade II and Accountant/Establishment Clerk is that the candidates should have cleared the clerical examination by clearing four subjects mentioned therein. The petitioner has not cleared the departmental examination to claim the benefit of pay-scale, therefore, the benefit which is granted to the petitioner has rightly been withdrawn.

5 Heard learned counsel for the parties and perused the records.

6 In the present case, the petitioner was working on the post of Lower Division Clerk since 24.4.1980 and promoted on the post of Assistant Grade-II. After completion of 20 years of service, he was granted the benefit of second and third time bound pay-scale, which was subsequently withdrawn vide orders dated 11.1.2018 and 7.2.2018 on the ground that the petitioner does not fulfill the eligibility criteria for promotion as well as he has not cleared departmental examination. Relying on Clause 4 of the circular dated 24.01.2008, the respondents in their reply have stated that the petitioner is working on the post of Assistant Grade-III and to Assistant Grade-II and to next promotional Accountant/Establishment Clerk, for which the petitioner does not fulfill eligibility criteria, therefore, the benefit of second time bound pay-scale granted to the petitioner has been withdrawn. Admittedly, the petitioner has not been promoted on the post of Accountant on the ground of non passing of the accounts training.

7 From perusal of the records, it reveals that the petitioner is working on the post of Assistant Grade-II at the time of grant of Second and third time bound pay scale, but he is working on the post of Assistant Grade-III and next promotional post is the post of Assistant Grade-II and next to Accountant/Establishment Clerk, for which, eligibility criteria is five years and three years' experience. The petitioner fulfills the said eligibility criteria and therefore, the screening Committee, vide order dated 16.12.2014 and 23.1.2016 has granted the benefit of second time bound pay-scale to the petitioner w.e.f. 1.4.2006 and

the second time bound scale from 1.4.2014. It is also to be noted that the said benefit has been withdrawn vide the impugned orders.

8 In light of the aforesaid, I allow the present writ petition and the impugned orders dated 11.1.2018 (Annexure P/1) and 7.2.2018 are hereby quashed. The respondents are directed to grant the pension and gratuity and other triral benefits on the basis of second and third time bound scale granted to the petitioner vide order dated 16.12.2014 (Annexure P/3) and order dated 23.1.206 (Annexure P/5).