

(2011) 10 MP CK 0065
In the Madhya Pradesh High Court
Case No : W.A. No. 946 of 2010

Bhawarlal Badoniya and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 12-10-2011

Acts Referred:

Citation : (2011) 10 MP CK 0065

Hon'ble Judges : Vimla Jain, J;K.K. Lahoti, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This order shall decide W.A. No. 946/2010, W.A. No. 183/2010, W.A. No. 777/2010, W.A. No. 778/2010, W.A. No. 1067/2010, W.A. No. 1068/2010, W.A. No. 1071/2010, W.A. No. 1124/2010, W.A. No. 1133/2010, W.A. No. 1134/2010, W.A. No. 1140/2010, W.A. No. 1141/2010, W.A.1147/2010, W.A.1148/2010, W.A.1221/2010, W.A. No. 1231/2010, W.A. No. 1232/2010, W.A. No. 1240/2010, W.A. No. 1273/2010, W.A. No. 1281/2010, W.A. No. 1356/2010, W.A. No. 1359/2010, W.A. No. 1360/2010, W.A. No. 1361/2010, W.A. No. 1383/2010, W.A. No. 1384/2010, W.A. No. 1387/2010, W.A. No. 163/2011, W.A. No. 423/2011, W.A. No. 424/2011, W.A. No. 425/2011, W.A. No. 426/2011, W.A. No. 427/2011, W.A. No. 428/2011, W.A. No. 430/2011, W.A. No. 431/2011, W.A. No. 433/2011, W.A. No. 436/2011, W.A. No. 438/2011, W.A. No. 439/2011 and W.A. No. 441/2011. As the controversy in all the cases is similar, all the appeals are decided by this common order. For the convenience facts are taken from W.A. No. 946/2010.

2. The learned Single Judge relying on the judgment dated 24.8.1992 of M.P. Administrative Tribunal, Jabalpur in O.A. No. 2745/1989 Madhukant Yadu Vs. State of Madhya Pradesh, decided the matter finally, on the ground that SLP preferred against Madhukant Yadu bearing SLP No. 6892/1993 was dismissed on 3.1.1999. Thereafter various matters were decided by the Single Bench and also by the Division Bench relying on the ratio of Madhukant Yadu.

3. Learned counsel for appellants submitted that though the benefit of Madhukant Yadu (supra) has been extended to the appellants, but no monetary benefit has been given, so the appellants be extended monetary benefit. They have placed reliance to a Division Bench judgment of this Court in Smt. Saroj Shah Vs. State of M.P. and others W.A. No. 744/2010 decided on 27.8.2010 and submitted that similar directions may be issued in this matter.

4. Shri Kumaresh Pathak, learned Dy.A.G., submitted that though against the judgment of Madhukant Yadu, decided by the M.P. Administrative Tribunal, SLP was dismissed, but in another case of Pankaj Saxena Vs. State of M.P. & others, which was decided on the basis of Madhukant Yadu, the Apex Court has entertained the SLP (Civil) No. 5346/2005 State of M.P. and others Vs. Pankaj Saxena in which interim order has been passed, so this appeal may be dismissed or may be kept pending till the decision in Pankaj Saxena.

5. This contention is also opposed by the learned counsel appearing for appellants, who submitted that the case of Pankaj Saxena has been entertained by the Apex Court in respect of condonation of delay and Special Leave has not been granted, so the appellants be extended the benefit of Smt. Saroj Shah.

6. We have heard learned counsel for parties and perused the impugned order. By the impugned order, learned Single Judge while allowing the writ petition preferred by the appellants directed that though the appellants shall be entitled for the benefit of Madhukant Yadu but notionally, they shall not be entitled for monetary benefit because they have approached to the Court after long lapse of period and the State Exchequer should not be burdened with the arrears.

7. The Division Bench of this Court in Smt. Saroj Shah considering similar controversy held thus :

This intra-Court appeal arises from the order dated 23.7.2010 passed by learned Single Judge in W.P. No. 9564/2010(s).

Facts giving rise to filing of the instant writ appeal briefly stated are that the appellant, who is an Upper Division Teacher, claimed benefit of regular pay-scale from the date of initial appointment as well as arrears of salary in view of order dated 18.12.2008 passed by Division Bench of this Court in W.A. No. 346/08 Smt. Usha Ranawat Vs. State of M.P. and others. Learned Single Judge vide said order disposed of the writ petition preferred by the appellant and held that order was passed by the Division Bench in the writ appeal referred to supra in the year 2008 and since the present appellant has approached this Court after a long period of time, therefore, the State exchequer cannot be burdened with payment of arrears of salary. Accordingly, the relief of grant of arrears and salary to the appellant was denied. However, it was held that appellant is entitled to notional pay fixation.

Learned counsel for the appellant vehemently contended that in a similar case namely W.P. No. 8565/2010 (s), learned Single Judge vide order dated 9.7.2010

took into account the order passed by the Division Bench in the case of Smt. Usha Ranawat supra and directed the respondents to examine the case of the petitioners of that writ petition in the light of the order passed by the Division Bench of this Court in Usha Ranawat's case. It was further submitted that writ petition No. 8565/10 (s) was also filed in the year 2010 and was disposed of on 9.7.2010. Therefore, there was no justification to deprive the appellant of the similar benefit.

Though, Shri Pathak, learned Dy. Advocate General opposed the submissions made on behalf of the appellant, however, he could not point out any justification or reason for not extending the similar benefit to the present appellant.

It is well settled in law that similar matters should receive similar treatment on the principle of parity. See: *Bir Bajrang Kumar Vs. State of Bihar and others*, AIR 1987 SC 1345. The benefit of the order passed by Division Bench in the case of Smt. Usha Ranawat supra has been extended to the petitioners of Writ Petition No. 8565/10 (s). We see no reason as to why the similar benefit should not be extended to the present appellant on the principle of parity. Therefore, the order passed by the learned Single Judge is set aside and respondents are directed to examine the case of the appellant in the light of the Division Bench decision of this Court in Smt. Usha Ranawat's case and if the appellant is found entitled, the respondents shall extend the same benefit as has been extended to other similarly situated employees by virtue of the order passed in the case of Smt. Usha Ranawat supra. The aforesaid exercise should be completed within a period of six months from the date of receipt of certified copy of the order.

Accordingly, the writ appeal is allowed.

8. As the controversy has been decided by another Division Bench and we do not find any reason to differ with the judgment of Division Bench in Smt. Saroj Shah, we allow these appeals in terms of the directions issued by another Division Bench in Smt. Saroj Shah. However it is made clear that in case the Apex Court allows the SLP in Pankaj Saxena and reverse the order passed by the Tribunal or by this Court, the same order shall be applicable in the cases of appellants, as far as it is applicable.

9. With the aforesaid directions, these appeals are allowed. All the arrears will be released by the State within a period of six months from the date of communication of this order. If the amount is not paid within a period of six months, the appellants shall be entitled for interest @ 6% per annum on all the arrears from today, till payment of arrears.

10. Considering the facts of the case, there shall be no order as to costs. A copy of this order be placed in the record of all the writ appeals decided by this order.

11. C.C., as per rules.