

(2020) 03 MP CK 0025

In the Madhya Pradesh High Court

Case No : Writ Petition No. 8809 Of 2019

Dr. Bharati Kiyawat

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 05-03-2020

Acts Referred:

Citation : (2020) 03 MP CK 0025

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : Ashish Choubey, Abhinav Dhanodkar

Final Decision : Disposed Of

Judgement

By this writ petition, the petitioner who is working as Associate Professor has challenged the order dated 30th September 2015 whereby she has been

denied the benefit of senior pay scale, select pay scale and 4th pay band on the ground that ACRs of petitioner for year 1991, 1993, 1998 & 1999

were average. Against this order petitioner had filed the representation which has been rejected by the respondents stating that the ACRs for the

period 1991 to 1994, 1998 & 1999 were average and the ACR for 1996 is not available and there is no note in the ACR 1997.

Learned counsel for petitioner had placed reliance upon the order of this Court dated 7/12/2018 passed in WP No. 4305/2018 (s) in the matter of Dr.

(Mrs.) Jyoti Vaidya Vs. Higher Education Department and connected writ petitions wherein it has been held that such uncommunicated remarks

which comes in the way of petitioner for granting the scale and pay-band cannot be relied upon.

Learned counsel for State does not dispute that the aforesaid ACRs were not

communicated to petitioner. In this regard the affidavit of competent authority dated 4th March 2020 has also been filed stating that since the remarks were average, therefore, they were not communicated.

The Coordinate Bench in the matter of Dr. (Mrs.) Jyoti Vaidya (supra) has held that:

“8. There is no cavil of doubt that every entry in the ACR of a public servant is required to be communicated as held by the Hon’ble

Supreme Court in the case of Devdutt’s case (supra). But in Sukhdev Singh’s case (supra), the Hon’ble Supreme Court has approved the

said judgment with further justification as contained in para 8 thereof:

8. In our opinion, the view taken in Dev Dutt that every entry in ACR of a public servant must be communicated to him/her within a

reasonable period is legally sound and helps in achieving three fold objectives. First, the communication of every entry in the ACR to a

public servant helps him/her to work harder and achieve more that helps him in improving his working and give better results. Second and

equally important, on being made aware of the entry in the ACR, the public servant may feel dissatisfied with the same. Communication of

the entry enables him/her to make representation for upgradation of the remarks entered in the ACR. Third, communication of every entry in

the ACR brings transparency in recording the remarks relating to a public servant and the system becomes more conforming to the

principles of natural justice. We accordingly, hold that every entry in ACR poor, fair, average, good or very good must be

communicated to him/her within a reasonable period.

9. Under such circumstances, the contentions advanced by learned Dy. Advocate General pales into insignificance and of no consequence.

10. Consequently, all the petitions are allowed. The impugned orders dated 07.09.2016 & 04.01.2018 vide Annexure P-8 and P-15 respectively in

W.P. No. 4305/2018(S) and the impugned orders in the connected writ petitions are hereby quashed with the following directions:

(i) each of the petitioner shall submit a detailed representation within fifteen days from today alongwith a certified copy of the order;

(ii) the concerned authorities shall call for the relevant record from the concerned respondents and scrutinize the cases of petitioners individually;

(iii) respondents are further directed to grant the benefits of Senior Grade pay scale w.e.f. 21.11.1996, Selection Grade Pay Scale w.e.f. 21.11.1999

and Pay Band-IV w.e.f. 01.01.2006 and fix the pay of petitioner in W.P. No. 4305/2018(S) alongwith arrears thereof alongwith interest @ 12% p.a.in

accordance with law.

Likewise, the petitioners in other connected petitions are entitled for the benefits of Senior Grade Pay Scale, Selection Grade Pay Scale and Pay Band

IV w.e.f. the due dates alongwith 12% interest in accordance with law.

(iv) the entire exercise shall be concluded by the respondents within 3 months from the date of production of certified copy of the order passed today.

A copy of this order be placed in all the other connected cases.

It is pointed out that the aforesaid order of Single Bench has been affirmed by the Division Bench also by order dated 1/3/2019 passed in WA No.

310/2019.

Counsel for respondents has also not disputed that the present case is covered by the aforesaid judgment.

Hence the present writ petition is disposed off by setting aside the impugned order dated 3/7/2018 and directing the respondents to do the needful in

terms of the aforesaid order in the case of Dr. (Mrs.) Jyoti Vaidya (supra). The direction issued in the case of Dr. (Mrs.) Jyoti Vaidya (supra) will

apply mutatis mutandis in the present case also.

C.C. as per rules.