
(2015) 09 MP CK 0030
In the Madhya Pradesh High Court
Case No : Writ Petition 5885/15

Hemlata Tomar and Others	Vs	APPELLANT
State of M.P. and Others		RESPONDENT

Date of Decision : 09-09-2015

Acts Referred:

Citation : (2015) 09 MP CK 0030

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : Pushpendra Bhargav, for the Appellant

Final Decision : Disposed off

Judgement

Sujoy Paul, J.

IA No. 5980/15 is taken up.

1. Since the cause of action and grievance of both the petitioners is same, IA is allowed.

2. The grievance of the petitioners is that they have been classified as permanent employees by the employer by order, Annexure P/2. This permanent status is not taken away till date. Despite classifying the petitioners as permanent employees, they have not been given pay scale attached to the said permanent post. In addition, the petitioners are praying for the benefits of DA, increments, seniority and other benefits.

3. This Court has recently passed the order in Writ Petition No. 2000/2015 (Kaluram Narwariya v. State of MP & ors.) dated 6.4.2015, which is identical to the present matter and, therefore, I deem it proper to dispose of this matter in terms of said order. The order in Kaluram Narwariya (supra) reads as under:--

"5. The Division Bench in Writ Appeal No. 110/2011 and connected matters (Annexure P/3) opined as under:--

"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 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, (1989) J.L.J. 36 : (1990) 1 L.L.J. 551 .

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.

6. The Apex Court dismissed the SLP (Civil) No. (s) 20025/2011. The Apex Court opined as under:--

"In Rest of the Matters

Delay condoned.

Dismissed.

We direct the State Government to implement the order(s) passed by the High Court within eight months" time from today.

If for any reason, the petitioner- State does not implement the order(s) passed by the High Court, the respondents are at liberty to approach this Court by way of filing contempt petition(s)."

7. Apart from this, similar orders passed by this Court are affirmed by the Division Bench and by Supreme Court.

8. Considering the aforesaid, it can be safely concluded that the ratio decidendi of the judgment passed by this Court in State of MP v. Ramprakash, reported in State of Madhya Pradesh and Others Vs. Ram Prakash Sharma and Others, (1989) J.L.J. 36 : (1990) 1 L.L.J. 551 , followed in Writ Appeal No. 110/2011, is that the mode of induction as a permanent employee through Standard Standing Orders is also a permissible and statutory mode of induction. Once an employee is given permanent status under the Standing Orders, he becomes a permanent employee for all purposes. The said judgment in Ramprakash and in Writ Appeal No. 110/2011 has to be read as a judgment in rem and not a judgment in personam.

9. In view of this ratio, a model employer/welfare State should extend the similar benefits to all similarly situated persons. We are not oblivious of the fact that a sizable number of poor employees, who are in a lower echelon of the State Government service, are required to knock the doors of the Court for seeking similar relief. This kind of litigation can be avoided, if Government extends the benefits to all similarly situated persons. Once the Government's SLPs are dismissed and the legal position has attained a finality, in all fairness, the respondents should extend the benefit of the said principle to all similarly situated employees. In *Inder Pal Yadav and Others Vs. Union of India (UOI) and Others*, (1985) 51 FLR 138 : (1985) 2 LLJ 406 : (1985) 1 SCALE 703 : (2005) 11 SCC 301 : (1985) 3 SCR 837 : (1985) 2 SLJ 58 : (1985) 17 UJ 1040 , the Apex Court opined as under:--

"Therefore, those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment, if not by anyone else at the hands of this Court."

10. In the light of aforesaid and at the cost of repetition, in my opinion, the judgment passed in *State of MP v. Ramprakash (supra)* is a judgment in rem. The same can be said about the order dated 1.11.2011 (Annexure P/3).

Resultantly, this petition is disposed of by following directions:--

(1) The petitioner shall file a fresh representation before respondents along with the proof of acquiring permanent status by way of classification. The respondents shall verify and if petitioner's permanent status remains intact, he shall be given similar treatment, i.e., grant of regular pay scale attached to the permanent post from the date of classification as permanent employee.

(2) The respondents shall also grant increments attached to the pay scale and if rules permit, extend benefit of DA in favour of the petitioner.

(3) The respondents shall also pass a speaking order regarding claim of grant of seniority to the petitioner from the date of classification as permanent employee.

(4) If for any justifiable reason, the petitioner is not found entitled for any of the benefits claimed, a detailed and reasoned order be passed and communicated to the petitioner. The aforesaid exercise be completed within 120 days from the date of production of copy of this order along with the representation.

(5) It is made clear that it will not be open to the respondents to deny relief to the petitioners on the ground that they were not litigants in W.A. No. 1266/2010 and other similar matters, which were decided on merits, if they are otherwise similarly situated. Petition is disposed of."

4. In the light of aforesaid order, this petition is disposed of in terms of the order passed by this Court in WP No. 2000/2015 (*Kaluram Narwariya*). The directions contained therein shall apply *mutatis mutandis* to this case with full force. The

parties are directed to act accordingly.

5. Petition is disposed of.