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**(2020) 02 MP CK 0160**  
**In the Madhya Pradesh High Court**  
**Case No : Writ Petition No. 4584 Of 2020**

Ishak Khan

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

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**Date of Decision :** 24-02-2020

**Acts Referred:**

Constitution Of India, 1950 — Article 226

**Citation :** (2020) 02 MP CK 0160

**Hon'ble Judges :** Vishal Mishra, J

**Bench :** Single Bench

**Advocate :** Somya Chaturvedi, R.S. Bansal

**Final Decision :** Disposed Of

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## Judgement

1. The present petition filed under Article 226 of the Constitution prays for the following reliefs:-

"(i) That, a direction may kindly be given to the respondents to pay the salary as per pay scale of the post of the Permanent Gangman to the petitioner

from the date of his classification as held by the Hon'ble Supreme Court in the case of Ram Naresh Rawat.

(ii) Any other relief, which this Hon'ble Court may deem fit and proper, may also be given to the petitioner."

2. Petitioner who happens to be a 'Permanent Gangman' submits that despite having been classified as a permanent employee vide P/2 under the M.P.

Industrial Employment (Standing Order) Act, 1961, no benefit of regular pay scale has been extended to him. He submits that petitioner's classification

order is still intact and has not been cancelled by the authorities as mentioned in para 5.2 of the petition memo.

3. The law in regard to the benefits flowing from an order of classification is now

settled in view of the decision of Apex Court in the case of Ram

Naresh Rawat Vs. Ashwini Ray reported in 2017 (Vol 3) SCC 436, relevant extract of which is reproduced below for convenience and ready

reference:-

"4..... The precise submission is that once they are conferred the status of permanent employee by the court and it is also categorically held that

they are entitled to regular pay attached to the said post, not only the pay should be fixed in the regular pay scale, the petitioners would also be entitled

to the increments and other emoluments attached to the said post.

18. Insofar as petitioners before us are concerned they have been classified as 'permanent'. For this reason, we advert to the core issue, which would

determine the fate of these cases, viz., whether these employees can be treated as 'regular' employees in view of the aforesaid classification? In other

words, with their classification as 'permanent', do they stand regularized in service?

26. From the aforesaid, it follows that though a 'permanent employee' has right to receive pay in the graded pay- scale, at the same time, he would be

getting only minimum of the said pay-scale with no increments. It is only the regularisation in service which would entail grant of increments etc. in the

pay scale.

27. In view of the aforesaid, we do not find any substance in the contentions raised by the petitioners in these contempt petitions. We are conscious of

the fact that in some cases, on earlier occasions, the State Government while fixing the pay scale, granted increments as well. However, if some

persons are given the benefit wrongly, that cannot form the basis of claiming the same relief. It is trite that right to equality under Article 14 is not in

negative terms (See Indian Council of Agricultural Research & Anr. v. T.K. Suryanarayan & Ors.<sup>9</sup> ).

28. These contempt petitions are, accordingly, dismissed."

4. In view of the above and considering the statement made by the counsel for the petitioner, it is directed that in case the order of classification of the

petitioner is not cancelled at any point of time, then the petitioner be paid the minimum of the pay scale admissible to the post on which he has been

classified as a permanent employee without any increment. If any arrears is worked out, as a necessary consequence the same be paid expeditiously.

The whole exercise be completed within a period of three months from the date of receipt of certified copy of the order.

5. With the aforesaid direction, petition stands disposed of.