
(2019) 09 MP CK 0104
In the Madhya Pradesh High Court
Case No : Writ Petition No. 18770 Of 2018

Kashiram Raikwar

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 27-09-2019

Acts Referred:

Citation : (2019) 09 MP CK 0104

Hon'ble Judges : Vishal Dhagat, J

Bench : Single Bench

Advocate : D.K. Tripathi, Kaustubh Singh

Final Decision : Disposed Of

Judgement

1. Petitioner was appointed on regular basis as a Helper on a Class-IV post vide order dated 12.11.1990.
2. As per circular of the State Government dated 17.03.1999 and 24.01.2008, he is entitled for benefit of Kramonnati and time scale of pay. Petitioner retired on 30.06.2018 after completing 28 years of service but he has not been granted the benefits of up-gradation and time scale of pay. Department has imposed recovery on petitioner which is under challenge in W.P. No.15203/2016.
3. Respondents had controverted the fact of regularization in the establishment on 12.11.1990. It was averred that he was appointed as a Cattle Attendant as member of Work-charged and Contingency Paid Establishment as per M.P. Veterinary Department Contingency Paid Employees (Recruitment and Conditions of Service) Rules, 1979. There is no provision to grant benefit of up-gradation or time scale of pay to employees of Veterinary Department. In the year 2016 a circular was issued on 21.09.2016 by Finance Department to grant time scale of pay w.e.f. 01.01.2016.
4. Petitioner was appointed in regular establishment on the post of Peon on 27.12.2010. Counting services of petitioner from year 1990 he was granted 2nd

time scale of pay from 01.01.2016. In view of the above, writ petition filed by petitioner may be dismissed.

5. As there was dispute about the date of regularization of petitioner this Court vide order dated 24.01.2019 called for the service record between 1990 to 1999.

6. Considered the service record and it is found that petitioner was appointed on the post of Cattle Attendant on 12.11.1990. Post of Cattle Attendant as per Rule 5 of the Rules of 1979 (supra) is classified as Contingency Paid Employee. Pay of petitioner was revised as per Revision of Pay Rules, 1998, Document D/C and in Document D/D petitioner is shown as Contingency Paid Employee. It is clear that petitioner was regularized in the establishment vide order dated 27. 12.2010 and not before it.

7. Counsel for petitioner relied on order dated 17.04.2014 passed in W.P. No.5277/2014. In this case, this Court has allowed benefits of up-gradation of pay to a labour paid from regular work charged and contingency paid establishment on the ground that driver and other employees on regular work-charged and contingency paid establishment being governed by same set of Rules of 1978 and 1979 are entitled to similar benefits. The M.P. Veterinary Department Contingency Paid Employees (Recruitment and Conditions of Service) Rules, 1979 and the M.P. Employment Service, Contingency Paid Employees (Recruitment and Conditions of Service) Rules, 1977 are pari-materia and both set of employees are governed by Pension Rules of 1979. Considering the aforesaid, petitioner is also entitled to get benefit of up-gradation of pay as per circular of the State Government which has been extended to drivers and timekeepers.

8. Petitioner has already been granted the benefit of pay Scale. Therefore, petition is allowed partly and he may be extended benefit of up-gradation of pay after 12 and 24 years of service. Arrears to be paid will be subject to final decision in W.P. No.15203/2016.

9. With aforesaid direction this petition is disposed of.