
(2012) 09 MP CK 0323

In the Madhya Pradesh High Court

Case No : Writ Petition (S) No. 968 of 2003

Lalit Krishna Awasthy

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 25-09-2012

Acts Referred:

Madhya Pradesh Municipal Corporation Act, 1956 — Section 58

Citation : (2012) 09 MP CK 0323

Hon'ble Judges : K.K. Trivedi, J

Bench : Single Bench

Advocate : Arun Shukla, for the Appellant; S.M. Lal, Learned Govt. Advocate for the Respondent No. 1 and Shri Anshuman Singh, Learned Counsel for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

Hon"ble Shri Justice K.K. Trivedi, J.—The grievance of the petitioner is that he was appointed on the post of Sub Engineer on 7.7.1965 and had completed 20 years of service in the year 1985 and was, thus, entitled to grant of higher pay scale as was prescribed by the State Government, on completion of 20 years of service. Instead of granting the said benefit from the aforesaid date, by order dated 25.6.2003 Annx. P/1, it was stated that the petitioner would get the benefit of higher pay scale with effect from 14.12.2000 and not with retrospective effect when it become due on completion of 20 years services. It is contended that such an order was erroneously issued, inasmuch as, the benefit was made available to the employees like petitioner from the date they have completed 20 years of service. It is, thus, contended that the order impugned in so far as the date of giving benefit of higher pay scale is concerned, is bad and the respondents are liable to be commanded to make payment of arrears of salary on the higher pay scale to the petitioner from the date he had completed 20 years of service. A return has been filed by the respondent No. 2 and it is contended that the State Government has issued a circular extending the benefit

of higher pay scale of Rs. 2200-4000/- revised pay scale of Rs. 8000-13,500/- to those Sub Engineers and draftsman who have completed 20 years of service, with effect from the date of order. Since the order itself was issued on 14.12.2000 Annx. R2/1, the petitioner was given the benefit of higher pay scale from this date. It is contended that since this has been done in rightful manner in terms of the order of the State Government, no fault can be found against the action of the respondents. It is contended that the State Government is competent authority under the provisions of Section 58 of the M.P. Municipal Corporation Act, 1956 (hereinafter referred to as the Act brevity) to grant approval of such pay scale and, as such, the respondent No. 2 is bound by the order of the State.

2. By filing a rejoinder, this has been pointed out by the petitioner that the State Government has issued the order on 9.9.2003 which was sent to the respondent No. 2, making a clarification in the order dated 14.12.2000 and prescribing that the Finance Department of Government of Madhya Pradesh has issued a Notification on 7.4.1997, by which it is said that those who have completed 20 years of service on the post, were to be granted the benefit of higher pay scale with effect from 1.4.1997. It is contended that if the petitioner was not entitled to grant of higher pay scale from the date he had completed 20 years of service, at least, he was entitled to this benefit with effect from 1.4.1997. To this extent also, the claim of the petitioner has not yet been considered.

3. Learned counsel for the respondent No. 2 was asked to seek instruction whether such an order was received in the office of the respondent No. 2 from the State Government or not ? It is informed that such an order of the State is received in the office of the respondent No. 2 as is intimated to learned counsel for the respondent No. 2. Looking to the aforesaid order of the State Government wherein the modification has been ordered only, in the order dated 14.12.2000 as this order dated 9.9.2003 has been issued as a clarification to the aforesaid order, the petitioner would be entitled to grant of higher pay scale with effect from 1.4.1997. Since this is the cut of date prescribed, prior to this date the petitioner had completed 20 years of service, he would be entitled to the higher pay scale as is prescribed by the State Government in order dated 14.12.2000, from the date as notified by the Finance Department of Government.

4. To this extent, the writ petition is allowed. Let the proper fixation of pay of the petitioner be done after giving the benefit of pay scale as prescribed by the State Government in order dated 14.12.2000 with effect from 1.4.1997 and all the arrears be paid to the petitioner within two months from the date of receipt of certified copy of the order passed today. Consequently, the revision of pension be also done and arrears be paid to him within the aforesaid period. The writ petition is allowed to the extent indicated herein above. There shall be no order as to costs.