
(2019) 11 MP CK 0156

In the Madhya Pradesh High Court

Case No : Writ Petition No. 22441 Of 2019

Mangilal Tirole

APPELLANT

Vs

State Of Madhya Pradesh And Ors.

RESPONDENT

Date of Decision : 19-11-2019

Acts Referred:

Citation : (2019) 11 MP CK 0156

Hon'ble Judges : Vandana Kasrekar, J

Bench : Single Bench

Advocate : Anand Agrawal, Lokesh Mehta

Final Decision : Allowed

Judgement

1. The petitioner has filed the present writ petition challenging the orders dated 29/05/2017 and 04/09/2017(Annexure-P/1) and seeking directions to the respondents for extending the benefit of 5th & 6th pay-scale to him from the date of its applicability i.e. from 01/01/1996 of 5th pay scale and from 01/01/2006 of 6th pay scale respectively along with arrears.

2. The petitioner was initially appointed on the post of 'Choukidar' on 01/07/1989. His services were terminated along with other daily wage employees in 2001, but thereafter, he was taken back in service in the year 2004 and since then, the petitioner is working on the post of Choukidar. The petitioner has stated that he has completed more than 30 years of services and is qualified for appointment on the post of Choukidar. He further stated that the benefit of 5th & 6th pay-scale has granted from the date of its application i.e. 01/01/1996 and 01/01/2006 to the similarly situated persons, however, the same benefit has not been granted to the petitioner. The petitioner has further stated that he has filed a Writ Petition no.3936/2016 before this Court and the same was allowed vide order dated 15/06/2016 directing the respondents to grant the benefit of 5th & 6th pay-scale in the light of Sunil Kumar Daya vs. State of M.P. and others passed in W.P.3418/2014(s) on 22/07/2015. In pursuant to the direction of this

Court, the respondents vide order dated 11.4.2017 (Annexure P/6) have granted minimum pay scale of 5th & 6th pay scale to the petitioner and other employees along with arrears, but the Executive Engineer NVDA, Khargone vide order dated 29/05/2017 and the Chief Engineer by order dated 4/09/2017 had granted the minimum of the pay scale of 6th pay scale only to the petitioner from the date of filing of the petition and not from the date of applicability of the 6th pay scale. The petitioner has also not been granted benefit of 5th pay scale. Being aggrieved by the aforesaid orders, present petition has been filed.

3. Learned counsel for the petitioner submits that, once an order has been passed by this Court in favour of the petitioner in W.P. No.3936/2016 decided on 15/06/2016 by granting the benefit of 5th & 6th pay scale, the respondents cannot deny the benefit and therefore, the respondents are duty bound to comply with the order passed by this Court above case as well as the cases of similarly situated employees. The State Government has already approved the case of the petitioner for grant of 5th & 6th pay scale with arrears and, therefore, now the Chief Engineer/Executive Engineer has no power to grant him benefit from the date of filing of the petition and also to deny benefit of 5th pay scale and arrears.

4. The respondents have filed the reply and in the said reply, the respondents have not disputed this fact that the petitioner is entitled to get minimum of the pay-scale, however, they denied that since the petitioner is working as daily wager employee, therefore, he is not entitled to get the benefit of 5th and 6th pay scale.

5. Heard learned counsel for the parties and perused the record.

6. In the present case, the petitioner was initially appointed on the post of Choukidar on 1/07/1989 in the department. The respondents have extended the benefit of 5th & 6th pay scale to the other similarly situated persons. The petitioner, therefore, filed a Writ Petition No.3936/2016 before this Court and the said writ petition was disposed of vide order dated 15/06/2016 directing the respondents to pay the 5th and 6th pay scale in light of the case of Sunil Kumar Daya (supra).

7. In pursuance to the orders issued by this Court, the respondent/State issued order dated 11.4.2017 extending the said benefit to the petitioner and other similarly situated employees, however, the Executive Engineer has issued the order dated 29/05/2017 and Chief Engineer has issued order dated 4/09/2017, thereby extending the benefit of only 6th pay-scale to the petitioner from the date of filing of the writ petition, which is contrary to the order passed by this Court in W.P. No.3936/2016 decided on 15/06/2016. The petitioner is also similarly situated employee, therefore, the respondents are duty bound to comply with the order passed by this Court in favour of the petitioner also.

8. In view of the aforesaid, present writ petition is allowed. Orders dated 20.05.2017 and 04.09.2017(Annexure-P/1) are modified to the extent that the

respondents shall extend the benefit of 5th & 6th pay-scale to the petitioner from the date of its applicability i.e. from 01/01/1996 of 5th pay scale and from 01.01.2006 of 6th pay scale respectively along with all arrears, within a period of four months from the date of receipt of certified copy of this Court.

No order as to costs. C c as per rules.