

(2017) 02 MP CK 0077
In the Madhya Pradesh High Court
Case No : 16478 of 2005

Pradeep Kumar Shrivastava

APPELLANT

Vs

M.P. State Electricity Board and others

RESPONDENT

Date of Decision : 09-02-2017

Acts Referred:

Constitution of India, Article 226, Article 227 - Power of High Courts to Issue certain writs - Power of superintendence over all courts by the High Court

Citation : (2017) 02 MP CK 0077

Hon'ble Judges : Vandana Kasrekar

Bench : Single Bench

Advocate : K.N. Pethia, M.V. Jhon

Final Decision : Disposed Of

Judgement

1. The petitioner has filed the present writ petition under Article 226 /227 of the Constitution of India, challenging the impugned order dated 04/06/2005 (Annexure-P/6) and order dated 22/10/2005 (Annexure-P/7) thereby directing to reduce the pay scale in place of Rs. 4100-8900 to Rs. 3680-7700 and also directing recovery against the petitioner.
2. Respondents have filed their reply inter alia contending that the petitioner has been mistakenly given the higher pay scale of Rs. 4100-8900 in place of Rs. 3680-7700 however, a notice of recovery as well as proper fixation has been issued. It is no longer res-integra that the issue involved in the present

cases vis-a-vis against M.P. State Electricity Board has been decided with respect to other employees in W.P. No.

1179/2006 (Virendra Kumar Pandey Vs. State of Madhya Pradesh) on 19/05/2010 against which a writ appeal bearing no. 962/2010 has been filed that too was dismissed on 28.11.2013. This Court by the said orders has quashed the recovery granting liberty to the M.P. State Electricity Board to re-fix their proper pay to which they are entitled.

3. After hearing learned counsel appearing on behalf of both the parties and on consideration of the facts of the present cases as the grant of higher pay scale of Rs. 4100-8900 has been given in place of 3680-7700 mistakenly due to the fault of the Board therefore, recovery may not be permissible in the light of the judgment of the Supreme Court in the cases of Sahib Ram Vs. State of Haryana and others, 1995 Suppl.

(1) SCC 18 and Col. B.J. Akkara (Retd.) Vs. Government of India and others, 2006 (11) SCC 709 as well as State of Punjab and others Vs. Rafiq Masih (White Washer) and others, (2015) 4 SCC 334 therefore, it is directed that the notice be not made effective so far as it relates to recovery is concerned but it is clarified that the Board is at liberty to re-fix his pay as per his entitlement affording an opportunity to him.

4. With the aforesaid, the impugned order dated 04/06/2005 (Annexure-P/6) and order dated 22/10/2005 (Annexure-P/7) are quashed so far as it relates to recovery is concerned.

5. In view of aforesaid, the writ petition is disposed of.