

**(2020) 07 MP CK 0135**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No. 9641 Of 2020**

Radha Krishna Gautam (Sharma)

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

**Date of Decision : 14-07-2020**

**Acts Referred:**

Constitution Of India, 1950 — Article 14, 226

**Citation : (2020) 07 MP CK 0135**

**Hon'ble Judges : G. S. Ahluwalia, J**

**Bench : Single Bench**

**Advocate : Chetan Kanungo, M.P.S.Raghuwanshi**

**Final Decision : Disposed Of**

## **Judgement**

Heard finally, through Video Conferencing.

It is submitted that this case is covered by order dated 24/09/2018 passed by this Court in the case of Umesh Kumar Shrivastava Vs. State of M.P.

and others (W.P. No. 22362/2018) and similar order may be passed in this case also.

Prayer made by petitioner is not opposed by the counsel for the State.

Heard the learned counsel for the parties.

The order dated 24/09/2018 passed in W.P. No. 22362/2018 reads as under:-

Writ jurisdiction of this Court is invoked under Article 226 of the Constitution for seeking the following reliefs:

(a) The petition may kindly be allowed.

(b) Respondents be directed to grant the full benefits to the petitioner in accordance with the judgment of the Hon'ble Apex Court in the case of Ram

Naresh Rawat vs Ashwini Ray & Ors [(2017) 3 SCC 436].

(c) Any other relief which the Hon'ble Court deems fit in the facts and circumstances of the case.

Petitioner who happens to be a retired employee submits that he has been classified vide Annexure P-1 as a permanent employee under the M.P.

Industrial Employment (Standing Order) Act 1961 by order dated 29.09.2006.

Claim of the petitioner is that regular salary alongwith all benefits be released to him on account of his permanent status pursuant to the classification.

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:

â??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 payscale, 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. 9 ).

28. These contempt petitions are, accordingly, dismissed.â??

In view of the above, it is directed that in case the order of classification is intact, the petitioner shall 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 are worked out, as a necessary

consequence the same be paid as expeditiously as possible.

This petition is also disposed of in the similar terms & conditions.