

**(2019) 02 MP CK 0098**  
**In the Madhya Pradesh High Court**  
**Case No : Writ Petition No. 8490 Of 2016**

Raghuvir Singh

APPELLANT

Vs

State Of Madhya Pradesh & Others

RESPONDENT

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**Date of Decision :** 28-02-2019

**Acts Referred:**

Constitution of India, 1950 — Article 227  
M.P. Industrial Relations Act, 1960 — Section 108

**Citation :** (2019) 02 MP CK 0098

**Hon'ble Judges :** Sheel Nagu, J

**Bench :** Single Bench

**Advocate :** B.P. Singh, R.K. Upadhyay

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## Judgement

The writ and as well as supervisory jurisdiction of this Court is invoked to assail annex Annexure P/1 dated 22/01/2015 issued by the respondent No.1 sanctioning an amount of Rs. 2,30,992/- in favour of the petitioner as difference of salary for the period from 14/01/1995 to 31/05/2007 in regard to which adjudication by Labour Court, Industrial Court, this court and the apex court was made in favour of the petitioner/workman in the last about two decades.

The grievance of petitioner/workman is that the amount of Rs.2,30,992/- sanctioned in favour of the petitioner is deficient when compared with actual and adjudicated recoverable amount under the RRC Annexure P/8 issued for recovery of an amount of Rs. 3,96,143/- as arrears of land revenue.

The petitioner workman has also raised grievance of payment of less amount to the tune of Rs. 1,01,593/- despite the RRC (Page No.64 of the writ petition) dated 29/03/2014 seeking to recover as arrears of land revenue an amount of Rs. 2,89,280/- as difference of salary for the period of 01/06/2007 to 04/10/2009 (date of superannuation).

The grievance raised in the prayer clause qua gratuity has been given up by learned counsel for the petitioner by submitting that the same does not survive

any more and the only contention raised today is that despite the RRCs as aforesaid seeking to recover a particular adjudicated amount the sanction and consequential payment was of a lesser amount.

Learned counsel for the petitioner submits that the State has wrongly relied upon the decision *Ramnaresh Rawat Vs. Ashwini Ray & others* (2017) 3 SCC 436 to justify payment of lesser amounts.

On the other hand, learned counsel for the State has heavily relied upon the decision of apex court in *Ramnaresh Rawat* (supra) where the attention of the court invited to various paragraphs to emphasize that issue of pecuniary entitlement of a daily wager who has been declared as permanent employee by way of classification under the industrial standing order now stands settled to the extend that such classified employees shall be entitled to the minimum of regular pay-scale without the benefit of increments.

On the basis of this principle laid down by the apex court the State has re-calculated the difference of salary due to the petitioner for the aforesaid two periods i.e. from 04/01/1995 to 31/05/2007 in case of the first RRC dated 18/12/2010 (Annexure P/8) and for period from 01/06/2007 to 04/10/2009 as regards the second RRC dated 29/03/2014 (Page No. 64 of the writ petition).

In view of the above, factual matrix the only question which begs for an answer before this Court is as to whether in the given facts and circumstances, the State was competent to re-calculate the amount of difference of salary which had been adjudicated upon at different judicial levels from Labour Court to the Apex Court, merely, on the strength of subsequent change in law vide *Ramnaresh Rawat* (supra) case.

It is evident from record that for the first time the claim of the petitioner as regards difference of salary for the aforesaid first classification as permanent employee, regular salary and difference of salary w.e.f. 14/01/1995 was adjudicated in his favour by the Labour Court by order dated 18/01/1999 (vide Annexure P/3).

The order dated 18/01/1999 was unsuccessfully assailed by State before the Industrial Court, which dismissed the appeal on 09/05/2002 Annexure P/4. Thereafter, the petitioner/workman yet again approach the Labour Court complaining about non-implementation of it's original order dated 18/01/1999 by seeking additional amount arising out of interest over the amount of difference of salary which had yet not been received. The said attempt of the workman was decided by order 04/02/2010 (Annexure P/6) directing the State and its functionaries to pay an amount of Rs. 3,96,143/- i.e. difference of salary but the claim for interest was declined. Thereafter, the State approach the appellate forum i.e. Industrial Court at Gwalior. The appeal of the State was dismissed on 23/04/2010 which led to issuance of RRC dated 18/12/2010 Annexure P/8 for an amount of Rs. 3,96,143/-. The State thereafter, challenged the order of Labour Court dated 04/02/2010 regarding execution before this Court in WP No.

2686/2012 which was dismissed on 06/12/2013. Since, aforesaid RRC was not executed the workman filed WP No. 4353/2011 which was disposed of on 19/12/2011 with the direction to execute the RRC within 45 days. This order came to be assailed by the State in W.A. No. 306/2012 which further suffered dismissal on 11/12/2013 followed by dismissal of SLP filed by the State by order 08/10/2014 leaving the question of law open (vide Annexure P/12).

Petitioner/workman once again approached the Labour Court u/S 108 of the M.P. Industrial Relations Act, 1960 for difference of salary for subsequent period of 01/06/2007 to 04/10/2009 which was allowed vide order dated 27/09/2012 (Annexure P/13) directing that the difference of salary to the tune of Rs.2,89,280/- be released in favour of the petitioner.

Thereafter, vide Annexure P/14 dated 04/03/2014 recovery warrant was issued for the amount of Rs.2,89,280/- by RRC 29/03/2014. The order dated 04/03/2014 was again unsuccessfully challenge by the State in the Industrial Court where the appeal of the State was rejected on 18/11/2014 (Annexure P/15).

Thereafter, the petitioner has re-visited this Court raising the same grievance of non-grant of his adjudicated.

The State in its usual resilient & adamant self continued to challenged the claim of the petitioner by filing yet another W.P. No. 340/2015 which was dismissed vide Annexure P/16. A part of this order is worthy of reproduction as it details that callous attitude of the State and its functionaries in dealing with its employees compelling than to repeatedly knock the doors of the courts for obtaining adjudicated claims.

The petition of the State was rejected on 30/01/2015 (Annexure P/16), which reads as under :-

"This petition under Article 227 of the Constitution of India at the instance of State Government is a classic example of dragging the workman to Court of law to justify denial of legitimate claim of workman by involving him in coils of litigation and labyrinth of adversarial procedural law. The workman initially engaged as telephone operator w.e.f. 7/8/1989 had filed a claim before the Labour Court vide case No. 23/MPJR/1997 for classification and regular pay-scale for the post of telephone operator and arrear of difference of pay as he has been continuing for all those years since the denial and completed more than 240 days in a calendar year. The Labour Court allowed the claim of workman vide order dated 18/1/1999. Appeal preferred by the State Government was dismissed by Industrial Court maintaining the order of Labour Court. As the State did not comply with the order passed by the Industrial Court dated 9/5/2002, an application under Section 108 of M.P. Industrial Relations Act, 1960 was filed by the respondent/workman before the Labour Court for recovery of the amount due under the award. The case was registered as case No. 38/A/ MPJR/2007. Labour Court allowed the application and called upon the petitioners/State to pay an amount of Rs. 3,96,143/- by order dated 4/2/2010. The appeal bearing No. 6/

MPIR/10 preferred by the State against the aforesaid order dated 4/2/2010 before the Industrial Court was dismissed on 23/4/2010. Though, respondent/workman was classified but since arrears were not paid, Labour Court issued RRC by order dated 18/12/2010 in case No. 54/MPIR/2010 Miscellaneous. The writ petition preferred by the State against the aforesaid order bearing No. 2686/2012 was also dismissed vide order dated 6/2/2013. The writ petition No. 4353/2011 filed by the respondent/workman for recovery of Rs. 3,96,143 before this Court was allowed by order dated 19/12/2011 and writ appeal preferred against the said order by State bearing W.A. No. 306/2012 was dismissed vide order dated 11/12/2013. Against the said order SLP preferred by the State bearing SLP (CC) No. 14390-14391/2014 was dismissed by Hon. Apex Court vide order dated 8/10/2014 but still petitioners/State did not comply with the order passed by Labour Court confirmed by Industrial Court, High Court and Supreme Court."

Meanwhile, the petitioner was further compelled to file a Contempt Petition No. 183/2012 where rule Nisi was dropped and the petition was dismissed on submission of State that an amount of Rs. 2,30,992/- by order dated 22/01/2015 was sanctioned in favour of the petitioner as against the first RRC of Rs. 3,96,143/-.

Thereafter, impugned order Annexure P/1 came to be passed on 22/01/2015 where the amount of Rs. 2,30,992/- was sanctioned in favour of the petitioner.

The State counsel further informs that in regard to subsequent period that is 01/06/2007 to 04/10/2009 (date of superannuation) as against the amount of Rs. 2,89,280/- mentioned in RRC the State has sanctioned and paid an amount of Rs.1,01,593/-.

Thus, the sole reason assigned by the State for payment of lesser amount is of re-calculation of the adjudicated amount of difference of salary on the principle laid down in Ramnaresh Rawat (supra).

It is not disputed that decision of Ramnaresh Rawat (supra) was pronounced on 15/12/2016 and the ratio was not in existence prior to that date. The rights of the petitioner's to the difference of salary stood adjudicated not only by the Labour Court but Industrial Court and this Court well in 2013/14 itself.

Accordingly, the arrears of salary for the recovery of which RRC had been issued of the amount of Rs.3,96,143/- and Rs. 2,89,280/- were amounts which were the outcome of the process of adjudication which could not have been disturbed or tinkered by an administrative order or fiat.

It seem that the State and its functionaries allowed the time to pass and somehow kept the litigation pending by approaching the higher forum despite having no case and repeatedly meeting failure at every stage but continued to persist with the hope that the law in regard to pecuniary entitlement to classified employees may undergo a change. This hope according to the State has turned into reality

in shape of Ramnaresh Rawat (supra) case.

However, in the considered opinion of this Court by the aforesaid ingenious method of using its might and dominant position the State cannot deny to the workman the claim which has once been adjudicated long time ago merely because a different judicial view on the subject has come at a subsequent point of time. The earlier adjudication cannot stand scuttled by subsequent changes in law unless the State successfully seeks review/ recalling of the earlier orders of different judicial forums.

Moreso, the reading of the decision of Apex Court in Ramnaresh Rawat (supra) does not indicate that there was any attempt towards unsettling the adjudicated claim by the Labour Court and the Industrial Court and also by this Court.

In view of the above, this Court deems it appropriate that denial of full claim of the adjudicated amount difference of salary due to the petitioner to the tune of Rs. 3,96,143/- for the period of 04/01/1995 to 31/05/2007 and an amount of Rs.2,89,280/- for the period of 01/06/2007 to 04/10/2009 is unlawful and to say the least belies the very claim of the State being a welfare State.

Consequently, the petition stands allowed and impugned order Annxure P/1 is quashed.

The State and its functionaries are directed to sanction and pay an amount of Rs.3,96,143/- and Rs. 2,89,280/- after appropriating the amounts already paid within an outer limit of 60 days by depositing the same directly by digital transfer to the credit of the bank account of petitioner for which necessary details shall be provided to Collector-Bhind by the petitioner within 15 days.

The petitioner/workman who has fought against the mighty State had to undergo repeated rounds of litigation right from 19/09/1999 till date and has not yet received his dues to the full and, therefore, the State deserves to be imposed with exemplary cost. This is one of the burning examples where the State ought to have voluntarily come forward and assisted the petitioner in getting his claim but instead the State has left no stone un-turned to create obstacles in the path of the petitioner in the last two decades.

Consequently, the State is directed to pay exemplary cost of Rs. 25,000/- to the petitioner, another Rs. 25,000/- to the Registry of this Court to be credited in favour of Legal Aid Cell. The aforesaid costs be paid within an outer limit of 60 days from today, failing which petitioner and this Court shall be free to initiate recovery proceedings as per M.P. High Court Rules & Order.