
(2014) 05 MP CK 0189
In the Madhya Pradesh High Court
Case No : W.P. No. 2212/2014

Ram Niwas Upadhyay and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 09-05-2014

Acts Referred:

Citation : (2014) 05 MP CK 0189

Hon'ble Judges : R.S. Jha, J

Bench : Single Bench

Advocate : P.K. Sharma, Learned Counsel, Advocate for the Appellant; Piyush Jain, Learned Panel Lawyer for the State on advance copy, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

R.S. Jha, J.—Heard on the question of admission.

2. The petitioners, who are Assistant Teachers have filed this petition claiming the benefit of regular pay scale from the date of regular appointment in the light of the order passed by the Division Bench at Indore Bench of this Court, in W.A. No. 346/2008 (Smt. Usha Ranawat Vs. State of M.P. and others), dated 18-12-2008. By the aforesaid order passed, more than 25 writ appeals claiming similar benefits were decided and it was directed that the benefit of pay fixation in the regular pay scale from the date of regular appointment shall be given to the petitioners therein. In fact the Division Bench has upheld the orders passed by the learned Single Judge in various cases and while deciding the writ appeals in para-19 the following directions were issued by the Division Bench:

19. In view of the foregoing discussion, the appeal filed by writ petitioners succeeds and is allowed whereas writ appeals filed by the State are dismissed in limine. Impugned order of Single Bench is modified to the extent that appellant (writ petitioner) in addition to all benefits awarded by the Single Judge in the impugned order would also be entitled to claim arrears of his salary from the

date of his initial appointment. In other words, the appellant will be entitled to claim the benefit of his pay fixation i.e. regular pay scale from the date of his initiate appointment. Let the calculation be made by respondents in the light of appellant's date of initial appointment and accordingly, the arrears payable to appellant towards his salary be paid to him/her in each case, which are subject matter of these appeals within a period of 6 months from the date of this order.

3. However, on going through the petition filed by the petitioners, it is observed that though the petitioners have claimed similar benefits as has been granted in the case of Usha Ranawat (supra), they have not mentioned the date on which they were regularly appointed and therefore, the respondents would have to examine the nature of appointment in each individual case on the basis of the facts obtaining in respect of that individual particularly in view of the fact that the benefit of the decision of this court rendered in the case of Usha Ranawat (supra) can be extended only in case the person is identically situated and has been given "regular appointment" on fixed pay, as was done in the case of Usha Ranawat (supra).

4. It is, however, observed that the petitioners have directly approached this Court without filing any representations before the authorities.

5. In the circumstances, as the authorities are required to apply their mind to each individual case and taking the facts of each case into consideration, i.e., as to whether the teachers concerned were given appointment on regular basis on fixed pay, examine it in the light of the decision in the case of Usha Ranawat (supra), therefore, in view of the aforesaid, the petition filed by the petitioners is disposed of with a direction to the effect that in case the petitioners file a representation before the authorities claiming the aforesaid benefit from the date of their initial appointment on regular basis alongwith a copy of the order passed today and a copy of the petition within three weeks, the concerned authority shall examine the same keeping in mind the decision in the case of Usha Ranawat (supra) with regard to payment of arrears and other benefits also and take a decision thereon expeditiously in accordance with law preferably within a period of three months thereafter.

6. However, it is made clear that this court has not expressed any opinion on the merits of the case and therefore the authority would be at liberty to examine the matter keeping all facts and facets into consideration and thereafter either accept or reject the representation by passing a reasoned order.

7. With the aforesaid direction the petition, filed by the petitioners stands disposed of.

8. C.C. as per rules.