
(2017) 01 MP CK 0168
In the Madhya Pradesh High Court
Case No : 18392 of 2013

Ritesh Jaiswal

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 06-01-2017

Acts Referred:

Citation : (2017) 01 MP CK 0168

Hon'ble Judges : Sujoy Paul

Bench : Single Bench

Advocate : A K Pare, Sudeep Chatarjee

Judgement

1. The singular claim advanced by the petitioner in this case is relating to grant of 12% interest on delayed payment of salary of 13 months (from 01.09.1997 to 10.09.1998), which was paid after 7 years 4 months. The petitioner has prayed for setting aside the order dated 29.06.2013 (Annexure-P/12), whereby the claim for interest of delayed payment is rejected by the respondents.
2. Shri A.K. Pare, learned counsel for the petitioner submits that delay in making the payment is solely attributable to the respondents. Hence, the petitioner is entitled to get interest on delayed payment.
3. The prayer is opposed by Shri Chattarjee, learned P.L. for the State by contending that the State Government took a lenient view and released the salary of the petitioner. This was done by taking a humanitarian approach. The petitioner did not join his duties for the relevant period. Hence, in the facts of this case, the petitioner is not entitled to get interest.
4. No other point is pressed by the learned counsel for the parties.
5. I have heard learned counsel for the parties at length and perused the record.
6. In the impugned order Annexure-P/12 dated 29.06.2013, the respondents have categorically averred that the petitioner was required to join at Dindori in obedience of the order dated 11.09.1997. The petitioner joined at Dindori only

on 11.09.1998. The petitioner did not perform his duties from 01.09.1997 to 10.09.1998. The stand of the petitioner is that the services of the petitioner were handed over to the Department of Panchayat and Grameen Vikas on deputation for a period of two years. After cancellation of the said orders dated 01.09.1997 and 11.09.1997, the petitioner was repatriated and posted as Dy. Forest Ranger whereas he was already promoted on the post of Forest Ranger. The petitioner assailed this action of posting him on an inferior post which amounts to reversion. The respondent department realized their mistake and cancelled the order dated 11.09.1997. Then the petitioner was posted in Forest Division, Dindori on 26.08.1998 (Annexure-P/5). A show-cause notice was given to the petitioner. He filed reply and was ultimately exonerated on 18.02.2002 (Annexure-P/6).

7. In the aforesaid factual backdrop, it is clear that the petitioner was subjected to an arbitrary action of posting on deputation as well as posting on an inferior post. The department, later on, realized it and rectified their mistake. Interestingly, the State Government decided to make payment of salary to the petitioner for the period in question. Thus, it is crystal clear that the department realized that the petitioner was not at fault and, therefore, he cannot be deprived from the benefit of salary. The salary for the period in question was admittedly paid to the petitioner. Thus, the core issue is : whether the action of payment of salary shows that the petitioner was not at fault and whether the petitioner can be deprived from the benefit of interest.

8. In the considered opinion of this Court, the respondents cannot deprive the petitioner from the benefit of interest. It is settled in law that when the reason for delayed payment is attributable to the department, the employee cannot be deprived from the benefit of salary. [See: 1994 (2) SCC 240 (Union of India Vs. S.S. Sandhawalia)].

9. In the light of aforesaid analysis, this petition is allowed. The order dated 29.06.2013 (Annexure-P/12) is set aside. The respondents are directed to calculate the interest on delayed payment of salary for the period in question @ 12% from the date of entitlement and pay the same to the petitioner within 90 days from the date of communication of this order.

10. The petition is allowed. No cost.