
(2020) 07 MP CK 0033

In the Madhya Pradesh High Court

Case No : Writ Petition No. 17389 Of 2019

Santosh Kumar Upadhyay

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 28-07-2020

Acts Referred:

Citation : (2020) 07 MP CK 0033

Hon'ble Judges : S. C. Sharma, J

Bench : Single Bench

Advocate : P.R. Bhatnagar, Amol Shrivastava

Final Decision : Allowed

Judgement

The petitioner before this Court has filed this present petition being aggrieved by the order dated 01.12.2016 (Annexure-P/1 and P/2), by which, a recovery has been ordered against the petitioner on the ground that he was erroneously granted Second Time Upgradation w.e.f. 01.04.2006. As per the respondents, the petitioner is entitled for Second Time Pay-scale w.e.f. 01.09.2007.

Learned counsel for the petitioner has drawn the attention of this Court towards the order dated 01.08.2019 passed in the case of Hari Singh Parmar

v/s The State of Madhya Pradesh & Others (W.P. No.465/2017) and his contention is that the controversy involved in the present case stands

concluded on account of the aforesaid judgment passed by this Court.

The order dated 01.08.2019 reads as under:-

The petitioner before this Court has filed this present writ petition being aggrieved by the order passed by the respondents dated 10/1/2017 by which the pay scale

granted to the petitioner ie., Rs.15600 + 39100 + 5400 Grade Pay granted w.e.f. 1/4/2006 has been withdrawn and he has been granted aforesaid pay scale w.e.f.

1/9/2007 in the light of Annexure R/1.

The contention of the petitioner is that he was appointed on the post of Sub Inspector on 1/6/1983 and was promoted to the post of Inspector in the month of February 2005 and he has been granted benefit of 1st kramonnati in the year 1999. The petitioner was granted pay revision by order dated 27/6/2012 w.e.f. 1/4/2006,

however, on account of some audit objection, the pay scale has not been approved by the Department of Accounts and Treasury w.e.f. 1/9/2007. No reason was

assigned while extending the date from 1/4/2006 to 1/9/2007 and in those circumstances the petition was filed.

During the pendency of the present Writ Petition the petitioner has attained the age of superannuation.

A reply has been filed in the matter and the respondents have stated that the petitioner was certainly entitled for grant of higher pay scale keeping in view the executive instructions dated 1/4/2008, 24/1/2008, 24/9/2008, 25/9/2008, 11/9/2009, 7/11/2009 and clarification dated 13/11/2009. The stand of the respondents is that the

recruitment Rules were amended at the relevant point of time, meaning thereby, there was no provision under the recruitment rules for grant of higher pay scale and in

those circumstances the date has been extended from 1/4/2006 to 1/9/2007. Along with the return also no cogent reason has been assigned except for making a

statement that the recruitment rules were amended at the relevant point of time. However, the respondents have not denied the averment that the petitioner has

completed 20 years of service on 1/4/2006. Not only this the persons who were granted higher pay scale along with the petitioner are enjoying the benefit w.e.f.

1/4/2006. There is no document to demonstrate that the benefit granted to identically placed persons w.e.f. 1/4/2006 has been withdrawn.

This Court is of the considered opinion that once the petitioner has completed 20 years of service on 1/4/2006, the respondents at the first instance were justified in

granting higher pay scale w.e.f. 1/4/2006. Only because the recruitment rules

were not amended, the pay scale granted to the petitioner on the basis of scheme of

upgradation which provided for grant of higher pay scale after 20 years of service, could not have been withdrawn. Resultantly, the impugned order passed by the

respondents withdrawing higher pay scale w.e.f. 1/4/2006 and granting the same w.e.f. 1/9/2007, is hereby quashed. The petitioner shall be entitled for all

consequential benefits by treating him in the higher pay scale w.e.f. 1/4/2006. The respondents shall issue a revised PPO and pay consequential benefits to the

petitioner within a period of four months from the date of receipt of certified copy of this order.

In light of the aforesaid order, as in the present case also no cogent reason has been assigned as to why the petitioner shall be entitled for upgradation

w.e.f. 01.09.2007. the impugned order dated 01.12.2016 and the subsequent pay fixation Annexure-P/2 are hereby quashed, meaning thereby, the

recovery initiated against the petitioner is hereby quashed. The status of the petitioner is restored. He is entitled for upgradation, as has been granted

to him w.e.f. 01.04.2006.

With the aforesaid, the present Writ Petition stands allowed.

Certified copy, as per rules.