

(2014) 05 MP CK 0226
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 1113/2013

Secretary State of M.P. and 2 Ors.

APPELLANT

Vs

Mohd. Israr Haji

RESPONDENT

Date of Decision : 07-05-2014

Acts Referred:

Citation : (2014) 05 MP CK 0226

Hon'ble Judges : Shantanu Kemkar, J;J.K. Jain, J

Bench : Division Bench

Advocate : Vinita Phaye, learned Government Advocate for the Appellant/State, Advocate for the Appellant

Final Decision : Dismissed

Judgement

1. Heard on IA No. 6590/2013, an application seeking condonation of delay.
2. On due consideration, the application is allowed and the delay in filing of the appeal is hereby condoned.
3. By this writ appeal, appellant/State of M.P. has assailed the order passed by the learned Single Judge of this Court dated 06.08.2013 in Writ Petition No. 1648/2005(S).
4. The basic issue decided and dealt with by the learned Single Judge was regarding regular pay scale payable to the employees, who were classified as permanent based upon the order passed by the Labour Court, Ujjain dated 26th of September, 2012. Learned Single Judge relying upon the judgment in the case of Rupram Yadav Vs. State of M.P. and others, observed that the order of the Labour Court does not warrant any interference.
5. Learned counsel for the appellant submits that SLP was filed and in Rupram's case (Supra), Hon'ble Supreme Court has admitted the SLP, however, no order has been passed.
6. We may reiterate the observations made in this case by the learned Single

Judge which reads as follows:

The record of the case reveals that the sole respondent was working as a daily wager under the Water Resources Department of State of Madhya Pradesh and by order dated 09-07-2002 he was classified as permanent. The impugned award dated 26-09-2012 further reveals that the workmen in question has preferred a reference and the same was registered as Case No. 32/2007 IDR and the Labour Court vide award dated 21-10-2011 has directed the respondents therein to regularize the petitioner and to grant regular pay scale. The writ petition does not disclose that the aforesaid award has been set aside by any higher court at any point of time. Meaning thereby, the award dated 21-10-2011 is still in existence. Not only this, the Labour Court after taking into account the order classifying the workmen as permanent dated 09-07-2002 and the award delivered earlier dated 21-10-2011 has directed the department to pay the difference of pay to the workmen in question. The order classifying the workmen reveals that the same has been passed under the Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1963. The same controversy came up before this court in the case of Rupram Yadav Vs. State of M.P. and others, and this court while dealing with the provisions of Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1963 has held that once an employee has been classified as a permanent employee, permanent status has been accorded upon him, in accordance with the provisions of the standard standing orders formulated under the Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1963 and he is entitled for regular pay scale attached to the post. This court in the aforesaid case in paragraphs 2 to 5 held as under:-

2. Petitioner has been classified as a permanent driver in accordance to the provisions of the Standard Standing Orders formulated under the M.P. Employment Standing Order Act, petitioner claims regular pay scale attached to the post of driver.

3. Claim made by the petitioner is based on the principles laid down by this court in the case of State of Madhya Pradesh and Others Vs. Hariram and Others, and an earlier judgment in the case of Engineer-in-Chief, P.H.E.D. and Others Vs. Budha Rao Magarde and Others, , in the cases referred to herein, particularly in the case of Hariram (supra) in para 10 and 12 after taking note of various judgments of this court, so also of the Supreme Court, particularly, the law laid down in the case of Budha Rao (supra) it has been held by a Bench of this court that classification of an employee entitles to get the pay scale to the post on which he has been classified as a permanent employee. Keeping in view law laid down in the case of Hariram (supra) and observations made in para 10 and 12 therein, there is no reason as to why benefit as claimed by the petitioner be not granted.

4. Accordingly, this petition is allowed, respondents are directed to grant to the petitioner regular pay scale to the post on which he has been classified in accordance to the provisions of the Standing Standard Orders. Necessary action

for payment of salary and other benefit be extended to the petitioner within three months from the date of receipt of certified copy of this order.

5. The petition stands disposed of with the aforesaid.

Keeping in view the aforesaid judgment delivered by this court, the award passed by the Labour Court does not warrant any interference. The petitioners are directed to grant the respondent the regular pay scale to the post on which he has been classified in accordance with the provisions of standard standing orders.

No case for interference is made out in the matter, in the peculiar facts and circumstances of the case.

The admission is declined.

No order as to costs.

7. In view of the aforesaid judgment, as quoted above, which issue has not been set aside by Hon"ble Supreme Court, we find no reason to interfere with the view and the approach taken by the learned Single Judge.

8. Consequently, present writ appeal is dismissed.

9. C.c. within three days.