
(2014) 01 MP CK 0032
In the Madhya Pradesh High Court
Case No : Writ Petition No. 7998 of 2013

Shrikant Kuchlahe

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 03-01-2014

Acts Referred:

Citation : (2014) 01 MP CK 0032

Hon'ble Judges : K.K. Trivedi, J

Bench : Single Bench

Advocate : Shailesh Tiwari, for the Appellant;

Final Decision : Disposed Off

Judgement

K.K. Trivedi, J.—Heard on the question of admission. It is contended by learned Counsel appearing for the petitioners that the controversy involved in the writ petition is squarely covered by the decision rendered by this Court in W.P. No. 16849/2010 (Ashan Lal Lilhare v. State of M.P. and others) and other analogous writ petitions, which have been decided finally vide order dated 23.04.2012. Copy of the order passed by this Court in the aforesaid case has been placed on record as Annexure P-7.

2. This Court after discussing various laws laid-down by the Apex Court in similar circumstances and taking note of the law laid-down by this Court, has disposed of the aforesaid writ petitions with the following directions:

i) In the case of daily rated employees recruited prior to 31/12/1988, the respondents are directed that prior to passing the order of retirement, either on completion of the age of 60 years or on completion of 30 years of service, the status of the employees should be determined, recording a finding that they do not fall within the definition of contingent/work-charged employees and such employees are the daily wagers. The aforesaid finding ought to be recorded by a committee constituted at District Level in each and every department on consideration of the facts of individual case;

ii) If the said committee is of the opinion that the employee falls within the definition of work-charged and contingent employees, then they would be entitled to be continued up to the age of 62 years in the light of the judgment of the Full Bench of this Court in the case of Vishnu and Others Vs. State of Madhya Pradesh and Others, and may be retired on completion of 62 years of age in the light of the circular of the Finance Department dated 20/1/2000;

iii) In the case of employees engaged prior to 31/12/1988, if the committee is of the opinion that the employees are only the daily rated employees and known as "daily wagers" and covered by the judgment of the Division Bench of this Court in the case of Badri Vs. State of M.P. and others, and not entitled to continue up to 62 years of age, the norms to retire such employees ought to be formulated by the State Government for observance to pass the orders of their retirement on completion of 60 years of age as directed under the impugned circular;

iv) In the case of retirement on completion of 30 years of service as a daily rated employees, the committee is required to record reasons that such employees have become physically unfit as per the medical examination and unable to work, however, finding ought to be recorded that they have become fragile to the department in view of the judgment of the Division Bench in the case of State of M.P. and others v. Noor Khan (W.P. No. 5725/2008).

v) All the impugned orders retiring employees are quashed and the respondents are directed to examine the case of individual petitioners in view of forgoing directions and observations and to pass appropriate orders within the period of three months from the date of communication of this order and to take action accordingly.

vi) The Registrar General of this Court is requested to send copy of this order to the Chief Secretary of the State of Madhya Pradesh with a direction to formulate the uniform norms for retirement of the daily rated employees in view of forgoing observations within a period of three months from the date of communication of this order. It is further directed that this order be circulated to all the respective departments with a note that observations so made are required to be strictly adhered to and the order of retirement ought not be passed in routine ignoring the aforesaid directions.

3. It appears that this order is not called in question anywhere and has attained the finality. However, it is not clear whether the circulars, as were directed by this Court to be issued by the Chief Secretary to all concerned Departments of Government of Madhya Pradesh, were issued or not.

4. Looking to the aforesaid, the petitioners would also be entitled to similar benefits as has been extended by this Court in case of Ashan Lal Lihare (supra) and order passed in the aforesaid case would be applicable mutatis mutandis in case of the petitioners as well. Let the exercise, as directed by this Court, be completed within a period of three months from the date of receipt of certified copy of the order passed today. With the aforesaid, the writ petition is finally

disposed of.

Certified copy as per rules.