
(2007) 12 MP CK 0029
In the Madhya Pradesh High Court

Shyam Paranjape

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 06-12-2007

Acts Referred:

Citation : (2008) ILR (MP) 441 : (2008) 2 MPHT 479 : (2008) 2 MPLJ 22

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Judgement

Rajendra Menon, J.

Challenging the order Annexure A-2 whereby proposing to recover Rs. 400/- per month from the pay of the petitioner with effect from 1-1-96 and reducing his pay, petitioner has filed this petition.

Petitioner was employed as a Sub-Engineer in the Water Resources Department, Division Morena since 6-11-95. For having undertaken family planning operation in view of certain circular issued by the State Government vide order dated 24th January, 1999 petitioner was granted two advance increments. However, when the revision of pay fixation took place, grievance of the petitioner is that the benefit of two advance increments is being taken away, his salary is being reduced and the advance increments given is being recovered. Accordingly, challenging the order reducing the pay and ordering recovery, petitioner has filed this petition. It is the case of the petitioner that even when revision of pay scale took place, two advance increments have to be added and pay fixed which having been not done, petitioner has filed this petition claiming benefit on the basis of certain judgment rendered by a Bench of State Administrative Tribunal on O.A. No. 415/92 vide Annexure A-3.

The question involved in this case has already been considered by a Full Bench of this Court in the case of State of M.P. v. R.K. Chaturvedi and Anr. reported in 2006 ILR 655. The question which was referred to the Full Bench is as under:

Whether in the event of promotion or payment of higher pay scale, employee is

entitled for benefit of advance increments paid in previous scale of pay or cadre?

The said question was answered in Para 12 of the judgment by the Full Bench as under:

12. In the result, our answer to the question referred to us by the Division Bench is that an employee whose pay is revised w.e.f. 1-1-1986 in accordance with Sub-rule (1) of Rule 7 of the M.P. Revision of Pay Rules, 1990 automatically get the benefit of the advance increments given to him for Family Planning operations under the circular dated 29-1-1979 and once his revised scale of pay is fixed in accordance with the said provisions of Sub-rule (1) of Rule 7 of the M.P. Revision of Pay Rules, 1990, he cannot claim any further benefit of advance increments in the event of his promotion or in the event of payment of higher pay scale.

It is, therefore, clear from the aforesaid principle laid down by Full Bench in the case of R.K. Chaturvedi (*supra*), that when pay of the petitioner is revised w.e.f. 1-1-96 in accordance with Rules 7 (1) of the M.P. Revision of Pay Rules, 1990 benefit of two advance increments is automatically granted to him in the revised pay scale and petitioner cannot claim any further benefit of two advance increments. From the pay fixation done in the case of petitioner as is evident from record, it is clear that pay of the petitioner is fixed and revised in accordance with Sub-rule (1) of Rules 7 of Revision of Pay Rules, 1990. That being so, petitioner cannot have any grievance and cannot claim any advance increment now. Accordingly, the claim made by the petitioner for grant of two advance increments and fixation of pay cannot be accepted. However, as pay of the petitioner was fixed incorrectly by the respondents themselves and the petitioner is not to be blamed for such incorrect pay fixation, the recovery ordered for the payment already made cannot be sustained.

Accordingly, this petition is allowed in part. Order passed by the respondents and action taken for refixation of pay of the petitioner is upheld. However, as the petitioner is not responsible for the incorrect pay fixation done earlier as no malafide or fraud or misrepresentation on the part of the petitioner is alleged or established, the respondents are restrained from recovering the amount already paid to the petitioner.

Accordingly, petition stands allowed in part and disposed of with the aforesaid without any order so as to costs.