

(2020) 09 MP CK 0166

In the Madhya Pradesh High Court

Case No : Writ Petition No. 13411 Of 2020

Smt. Khilona Hardaha

APPELLANT

Vs

State Of M.P. And Others

RESPONDENT

Date of Decision : 21-09-2020

Acts Referred:

Constitution Of India, 1950 — Article 226
Limitation Act, 1963 — Article 7

Citation : (2020) 09 MP CK 0166

Hon'ble Judges : G. S. Ahluwalia, J

Bench : Single Bench

Advocate : Vandana Tripathi, Gaurav Tiwari

Final Decision : Disposed Of

Judgement

This petition under Article 226 of the Constitution of India has been filed seeking the following relief(s) :

(i) Hon'ble Court may kindly be pleased to direct the respondents to direct the respondent authorities to consider and decide the representation dt. 13-3-20 made by the petitioner contained in Annexure P/4 by a speaking and reasoned order within a time bound frame in the light of the Judgment of Hon'ble Apex Court as well as this Hon'ble Court contained in Annexure P/2 & P/3 in the interest of justice.

(ii) Any other writ, order or direction, which this Hon'ble Court deems fit and proper in the facts and circumstances of the case, may also kindly be passed, in the interest of justice.

It is submitted by the counsel for the petitioner that the petitioner stood retired on 30/06/2017, whereas the next increment was payable from 01/07/2017 which has not been paid. It is submitted by the counsel for the petitioner that the judgment dated 15/09/2017 passed by the Madras High Court in the case of P. Ayyamperumal vs. The Registrar, Central Administrative Tribunal & Others passed

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W.P.No. 15732/2017 was upheld by the Supreme Court in SLP (Civil) Diary No.(s) 22283/2018. Review Petition (C) No.1731/2019 was also dismissed by order dated 02/08/2019. Further, the Division Bench (Principal Seat) of this Court in the case of State of MP & Others vs. Rajendra Prasad Tiwari (Writ Appeal No.363/2020) by judgment dated 06/03/2020, has dismissed the writ appeal filed by the State and has held that the employee retiring on 30th June of a particular year is also entitled for the increment which was payable from 1st of July of the said year. Further, it is submitted that the petitioner has retired on 30/06/2017, but the increment which was payable from 01/07/2017, has not been paid and accordingly, he is entitled for the arrears as well as for refixation of his pension.

Per contra, the petition is opposed by the counsel for the State on the ground of delay and laches. It is submitted that the petitioner had retired on 30/06/2017, whereas the petition has been filed in the year 2020, therefore, the petition is liable to be dismissed on the ground of delay and laches.

Heard the learned counsel for the parties.

So far as the question of delay and laches is concerned, as per Article 7 of the Indian Limitation Act, 1963, the period of limitation for recovery of wages is three years. Thus, so far as the question of pension is concerned, deficiency in the same would result in recurring cause of action. Since the entire arrears are within 3 years, therefore, no part of relief sought by the petitioner suffers from delay and laches. Accordingly, it is directed that the pension of the petitioner be re-fixed after adding increment which was payable from 01/07/2017. Since the petitioner is found to be entitled for increment which was payable from 01/07/2017, therefore, the arrears shall carry interest @ 6% per annum till the final payment is made. With aforesaid observations, this petition is finally disposed of.