
(2014) 01 MP CK 0054

In the Madhya Pradesh High Court

Case No : Writ Petition No. 2147 of 2013

Smt. Sudha Chhipa and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 13-01-2014

Acts Referred:

Citation : (2014) LabIC 2125

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : Prashant Sharma, for the Appellant; Nidhi Patankar, Govt. Advocate, for the Respondent

Final Decision : Partly Allowed

Judgement

Sujoy Paul, J

1. This is second visit of the petitioners to this court. It is contended by Shri Prashant Sharma, learned counsel for the petitioner, that earlier petitioners filed WP No. 1650/2000, which was disposed of on 01.12.2004 (Annexure P/1). In the said case the petitioners prayed for a direction to the respondents for extending the benefits of pay scale as per 5th Pay Commission. It is contended that said petition was disposed of on 01.12.2004 and the respondents were required to extend the benefits within six months therefrom. Benefits were granted belatedly on 27.08.2012 and, therefore, it is prayed that the delayed payment beyond six months from the date of original order should carry interest. Prayer is opposed by Mrs. Patankar on the ground that petitioners could have prayed for interest in the first round itself. If interest is not granted by this Court in WP No. 1650/2000, said prayer for grant of interest is hit by principle of constructive res judicata and cannot be granted in this petition.

2. I have heard learned counsel for the parties and perused the record.

3. This Court while deciding WP No. 1650/2000 directed as under:-

...In all these cases after considering the earlier judgment rendered by this Court in the case of Suresh Kumar it has been held that employees of non-government college are entitled to the same pay scale as is being extended to corresponding category of employee in the Govt. College. Considering the aforesaid this petition is allowed. For the grounds and reasons already indicated and discussed in the judgment referred to hereinabove, respondents are directed to extend the benefit of pay scale as has been granted to the corresponding category of employee in the Govt. College. Let action be taken for extending the aforesaid benefit as per prevailing liability of State Government within a period of six months from the date of receipt of certified copy of this order.

Accordingly, petition stands disposed of.

(Emphasis supplied)

4. A careful reading of this judgment shows that this Court applied ratio decidendi of earlier judgment of this Court in the case of Suresh Kumar Dwivedi and Others Vs. State of Madhya Pradesh and Others, . The judgment of Suresh Kumar (supra) got a stamp of approval from the Supreme Court. The same view was followed in Ashok Kumar Gupta Vs. State of M.P. by this Court, referred in the said order. Thus, relief granted by this Court was based on a judgment in rem. Respondents were required to implement the judgment within six months. If they have not done it within six months, it is to be presumed that they have illegally withheld said benefits beyond six months till actual payment. If the respondents would have paid arrears of 5th Pay Commission within six months, as directed in WP No. 1650/2000, there would have been no question of claiming interest. There was no occasion for this Court to presume that respondents will not implement the order within six months. Hence, objection of other side cannot be upheld.

5. In catena of judgments the Apex Court held that if an amount is due to an employee and it is illegally withheld by the other side, belated payment should carry interest. This view is taken in Union of India Vs. Justice S.S. Sandhawalia (Retd.) and others, , (2006) 6 SCC 455 (Union of India and Anr. Vs. M.S. Abdulla) and S.K. Dua Vs. State of Haryana and Another, . The Division Bench in State of M.P. and Others Vs. Ramji Das Agarwal, has also taken the same view.

6. In the considered opinion of this Court, whether it is retiral dues or other financial benefits, if it is shown that delay in payment is solely attributable to the respondents, the delayed amount must carry interest. I am not impressed with the argument of the respondents. In cases where entitlement of the employee is covered in principle and judgment delivered on the point is judgment in rem, every person need not be compelled to knock the door of the Court. Model employer should implement the order in favour of all similarly situated persons. If the order is not implemented in time and still employees are deprived from the interest on delayed payment, it will be a premium to lethargy and inaction on the part of the respondents.

7. On the basis of aforesaid analysis, in my opinion, petitioners are entitled to get interest on delayed payment after six months from the order dated 01.12.2004 till actual payment. The respondents shall calculate the interest and make necessary payment within four months. Petition is allowed to the extent indicated above.