

(2019) 07 MP CK 0013
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 11115 Of 2019

State Of Madhya Pradesh And Others	Vs	APPELLANT
Govind Choubey		RESPONDENT

Date of Decision : 10-07-2019

Acts Referred:

Citation : (2019) 07 MP CK 0013

Hon'ble Judges : S.C Sharma, J;Virender Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

This court by order dated 28.03.2019 has dismissed the identical writ appeal i.e. WA No.52/2019.

The order passed by this Court in WA No.52/2019 dated 28.03.2019 reads thus:-
â??Appellants through Counsel.

Shri Shivpal Singh Bhati, respondent is present in person.

He has straight away drawn the attention of this Court towards an order dated 22.10.2018 passed in W.A.No.1086/2018.

I.A.No.64/2019 is an application for taking documents on record. The same is allowed.

I.A.No.62/2019 is an application for condonation of delay.

There is delay of 95 days in filing the appeal. The matter was referred to the Law Department and thereafter permission was sought to file an appeal

and in those circumstances, the delay has taken place.

After hearing learned counsel for the State Government and respondent Shivpal Singh Bhati, the delay stands condoned.

I.A.No.62/2019 stands allowed.

The Division Bench of this Court while deciding W.A.No.1086/2018 in the case of Public Health Engineering Department and others Vs.

Chandrashekhar Joshi has dismissed the writ appeal in identical circumstances preferred by the State Government.

The order dated 22.10.2018 passed by the Division Bench in W.A.No.1086/2018 reads as under.

â??Parties through their Counsel.

I.A. No.4065 of 2018 is an application for condonation of delay.

After hearing learned Counsel for the parties, the delay stands condoned.

I.A. No.4065 of 2018 stands disposed of. I.A. No.4066 of 2018, is an application for grant of stay and I.A. No.4067 of 2018, is an application for

taking additional documents on record.

Both the applications stand disposed of, as this Court is finally disposing of the matter in the light of the order passed in an identical writ appeal.

The order dated 22.6.2018 passed in Writ Appeal No.1100 of 2017 reads as under:-

Heard on I.A.No.16000/2017, an application for condonation of delay in filing the writ appeal.

After hearing learned counsel for the parties, the delay is condoned and I.A. No. 16000/2017 stands allowed.

Learned counsel for the respondent has drawn attention of this court in respect of order passed in the case of Jagdish Mathur in writ appeal

No.452/2015 which has been relied upon by the learned single Judge.

The order passed in writ appeal No.452/2015 dated 09.02.2016 reads as under:

â?? Appellants is partly aggrieved by the order dated 06.08.2015, passed in W.P.No.4649/2014 whereby the learned writ court set aside the recovery

proceedings for recovery of a sum of Rs. 30,371/, but held that vide order dated 09.02.2012 (Annexure P/3) the appellant was granted the pay scale

of Rs. 2750- 4400 w.e.f. 02.09.1998 whereas he was entitled to the scale of Rs. 2550-3200. It is this part of the order by which the appellant is

aggrieved.

Learned counsel for the appellant has drawn our attention to the page-51 Letter No.8152, Bhopal dated 04.09.1996 of Engineer-in-Chief/PHE

Department, Bhopal whereby the State Government, after obtaining approval from the Finance Department revised a pay scale from time to time, as is evident from the aforesaid letter. Relevant of the letter dated 04.09.1996 reads as under:-

, 605/2099/77/ 1/ , 1. 8.77

-3

90-170 1.1.74

1984 525-4323 -1/

3.3. 84 , 1.4.82 90-170

445-635

1967 411-1628-87- -1/ , 3.8.87 1.1.86

445-635 775-1200

1990 114-90-

-1- 3.5.90 1.1.86 ,

775-1200 825-1200

From the aforesaid, it is not in dispute that from 01.01.1986 pay scale was revised to 825-15-900-20-1220. Thereafter, as per schedule of Rule-4 of

Seva Dainik- Karyabharit Tatha Akasmikta Karmachari Niyam, pay scale of 825-15- 900-20-1220 was revised to 2750-70- 3800-75-4400 w.e.f.

01.01.1996 though the notification was issued on 26.06.1998.

In view of the aforesaid, no further approval from the Finance Department as raised by the State before the writ Court is required. Accordingly, the

impugned order is partly set aside with a direction that the appellant was rightly granted pay scale of Rs.2750- 70-3800-75-4400.

In the result, the writ appeal is allowed to the extent as indicated hereinabove, but without any order as to cost.â??

The aforesaid order was challenged by the State of Madhya Pradesh before the Hon'ble Supreme Court and the Hon'ble Supreme Court vide

order dated 08.08.2017 has dismissed the Special Leave Petition and costs of Rs. 50,000/-imposed upon the respondent.

The order dated 08.08.2017 passed by Hon'ble Supreme Court reads as under:

â?? There is delay of 396 days in filing and 42 days in refiling the special leave petition. The special leave petition is dismissed on the ground of delay

with costs of Rs. 50,000/- to be paid by the petitioner to the Supreme Court Legal Services Committee within four weeks from today for utilization of

juvenile justice issues.â??

In light of the aforesaid order passed by Hon'ble Supreme Court, in identical case, wherein even costs has been imposed, the writ appeal preferred by

the State of Madhya Pradesh is dismissed.

Undisputedly the controversy involved in the present case stands concluded by the aforesaid order. Not only this, an SLP was also preferred by the

State of Madhya Pradesh and the same has been dismissed by the Apex Court as informed by the learned Counsel.

In the light of the aforesaid, as this Court has already decided an identical issue, the present writ appeal also stands dismissed.â??

Respondent is also an identically placed person. Another important aspect of the case is that the judgment delivered in the case of Chandrashekhar

Joshi (supra) was based upon another judgment delivered in the case of Jagdish Mathur in Writ Appeal No.452/2015 in which similar benefit was

granted to the employee in question.

Writ Appeal No.452/2015 was decided by an order dated 9.2.2016 against which SLP was preferred before the Apex Court and the Apex Court has

dismissed the SLP on 8.8.2017 and even a cost of Rs.50,000/- was imposed upon the State Government.

Thus, in short the Officers of the State Government were aware of the earlier orders passed from time to time granting relief to identically placed

employees and even the order passed by the Division Bench of this Court has been affirmed by the Hon'ble Supreme Court in the year, 2013.

In spite of the aforesaid, writ Appeals are being filed in similar matters by way of mechanical exercise and documents running in more than 200 pages

are filed with each and every writ appeal.

This Court is sorry to state that the Officers of the State Government are conducting a mechanical exercise. They are ignoring the orders passed by

this Court and the Hon'ble Supreme Court, and therefore, the admission is declined with a cost of Rs.25,000/-to be paid to respondent Shivpal Singh

Bhati, who cannot afford to engage a lawyer and who is fighting for his rights since 1996 which have been affirmed by the Apex Court in the case of

identically placed employees.

The appellants State shall comply the order within the time framework, as fixed by the learned Single Judge vide order dated 2.7.2018 and respondent

Shivpal Singh Bhati shall also be entitled for interest. In case, the judgment delivered by this Court has not been implemented within the time

framework fixed by the learned single judge, interest @ 8.5.% per annum from the date of entitlement till the amount is actually realized, be paid to

respondent Shivpalsingh Bhati.

With the aforesaid, writ appeal stands dismissed.â??

The present writ appeal also stands dismissed with a cost of Rs.25,000/-.

The respondent shall be entitled for all the benefits flowing out of order dated 28.03.2019.

With the aforesaid, the present appeal stands dismissed.