

(2016) 11 MP CK 0034
In the Madhya Pradesh High Court
Case No : W.P. No. 2745 of 2015

State of Madhya Pradesh

APPELLANT

Vs

M.P. Rajya Karmchari Sangh

RESPONDENT

Date of Decision : 16-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 LLJ 275

Hon'ble Judges : Mr. Prakash Shrivastava, J.

Bench : Single Bench

Advocate : Umesh Ganjankush, Advocate, for the Petitioner; M.K. Choudhary, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Prakash Shrivastava, J. - Heard finally with consent.

2. This writ petition has been filed by the petitioners challenging the award of the Labour Court dated 25/06/14, whereby the Labour Court has directed the petitioners to pay the regular benefit to the respondent/employee from the date of his classification as permanent employee.

3. Learned counsel appearing for the petitioners submits that the Labour Court has committed an error in passing the said order since on classification as permanent employee the respondent had not become entitled to the payment on regular basis.

4. As against this, learned counsel for the respondent submits that similar issue has already been decided in other writ petitions and the matter had travelled up to the Supreme Court and the SLP has been dismissed with certain directions.

5. Having heard learned counsel for the parties and on perusal of the record, it is noticed that the Labour Court has passed a detailed reasoned award. In the award, it has been found by the Labour Court that respondent was appointed on

the post of Chaukidar on 01/01/1982 and he has completed almost 30 years of service, thereafter, the petitioners have classified the respondent as permanent employee, but respondent has not been granted the benefit flowing from the classification and on the contrary even after the classification, the respondent has been paid daily wage. The Labour Court considering the same has directed the petitioners to pay regular salary similar to other permanent employees working on the post and also grant the other benefits to the respondent.

6. Learned counsel for the respondent has pointed out that the similar writ petition bearing W.P. No.5581/12 has been dismissed. Placing reliance upon the division Bench order in W.P. No. 2931/06 this Court in W.P. No. 5581/12 has held as under :-

"The petitioner State of Madhya Pradesh before this Court has filed this present writ petition being aggrieved by the order dated 21/10/10 passed by the Labour Court, Ujjain by which the petitioner has been classified as permanent. Various grounds have been raised in the writ petition, however, at the outset, learned counsel for the respondent has drawn the attention of this court towards an order passed by the Division Bench of this court in WP No. 2931 / 2006 (s) and other identical cases and his contention is that the controversy involved in the present case stands concluded by the aforesaid order passed by the Division Bench of this court. This Court has carefully gone through the order passed by the Division Bench and para 6 to 12, reads as under :

"06. We find that the award which has been challenged was passed on 22.09.2006 much prior to that the award dated 18.03.2004 was passed holding the respondents to be entitled for classification as a permanent employees and directed the petitioner to pay the respondents all the benefits of a permanent employee. We find that the delay in filing this petition has not been satisfactorily explained by the petitioners. In the circumstances in our considered view, on the ground of delay and limitation the petition deserves to be dismissed. However we have also heard the matter at length on merits.

7. Shri Vivek Patwa, learned Deputy Government Advocate has argued that on being classified as a permanent employees, the respondents cannot claim benefits of permanent employees and the action of the petitioner in paying them minimum wages as per the order dated 9.03.2005 (Annexure P-3) cannot be said to be unjustified.

08 . On the other hand Shri SH Moyal, learned counsel appearing for the respondents has placed on record various judgments passed by this Court from time to time including the orders dated 9.02.2010 passed by a Division Bench of this Court in W.P. No.1088 of 2006 (S) (State of Madhya Pradesh v. M.P. Dainik Vetan Karmachari Sangh and others, W.P. No.683 of 2004 (State of M.P. and another v. Madhya Pradesh Karmchari Congress) decided on 24.01.2011, W.P. No.3875 of 2008 (State of M.P. and another v. Harish and another) decided on 8.03.2010, W.P. No.3094 of 2009 (Sub Divisional Officer and others v. Nanhelal

Yadav) decided on 9.09.2009, the order dated 23.02.2011 passed by Supreme Court dismissing the SLP against the order passed in the case of S.D.O. Choral Canal v. Nanhelal Yadav and others (supra) a judgment passed by learned Single Judge placing reliance on various Division Bench judgments of this court and the judgment of the Supreme Court reported in 2008 (3) MPHT 274 (State of Madhya Pradesh and others v. Hariram and others) in support of his contention that on being classified as a permanent employee or workman the benefits flowing from such classification are required to be extended in favour of such employee/workman.

9. In our considered view, there cannot be any doubt that once an employee has been conferred the status of permanent employee / workman, he automatically becomes entitled for the salary and pay scale of that post.

10. We find that the reliance placed by the learned Deputy Government Advocate on the Supreme Court judgment is highly misplaced. The judgment of Supreme Court of India in the case of Union of India and another v. Arulmozhi Iniarasu and others [JT 2011 (7) SC 502] is not applicable to the facts of the present case. The said case is relating to absorption / regularization whereas, the present case is arising out of the case of the Labour Court by which the status of permanent employee has been conferred upon the employees / workmen. Learned Deputy Government Advocate could not point out any illegality in the order passed by the labour court by which the employees of the respondent union have been held to be entitled for classification. On the other hand it appears that the State Government has accepted the classification and ordered for classification in terms of the earlier order passed by the labour court. However for granting the monetary benefits flowing from such classification as permanent employee, the plea which is taken by the learned Deputy Government Advocate is having no legs to stand.

11. In the circumstances, keeping in view that on earlier occasions various orders have been passed by this Court from time to time extending the benefits of classification on being classified as a permanent employee / workman are entitled for the pay scale, we are not inclined to take a different view.

12. In the circumstances, we dismiss this writ petition and maintain the impugned order passed by the labour court. No orders as to costs."

Keeping in view the aforesaid order passed by the Division Bench of this court, the question of taking a different view in the peculiar facts and circumstances of the case does not arise and the present writ petition is accordingly dismissed".

7. It is also pointed out by learned counsel for the respondent that SLP No.27297/13 was preferred by the State against the order passed in W.P.No.5581/12 which has been dismissed by the Hon"ble Supreme Court vide order dated 21/01/15 by passing the following order :-

"Delay condoned.

Dismissed.

We direct the State Government to implement the order(s) passed by the High Court within eight months" time from today.

If for any reason, the petitioner-State does not implement the order(s) passed by the High Court, the respondents are at liberty to approach this Court by way of filing contempt petition(s)."

8. Since the case of the present respondent is also similar and the same benefit has been extended to the respondent and the Labour Court while passing the impugned award has assigned due and cogent reasons and nothing has been pointed out to show that any illegality has been committed by the learned Labour Court, I am of the opinion that no case for granting any relief to the petitioners in the present writ petition is made out.

9. Writ Petition is accordingly dismissed.