
(2013) 09 MP CK 0239
In the Madhya Pradesh High Court
Case No : WA No. 419 of 2013

State of M.P.

APPELLANT

Vs

Jagdish Kushwah

RESPONDENT

Date of Decision : 18-09-2013

Acts Referred:

Citation : (2013) 09 MP CK 0239

Hon'ble Judges : S.K. Gangele, J;Rohit Arya, J

Bench : Division Bench

Advocate : M.P.S. Raghuvanshi, A.A.G.s-State, for the Appellant; M.S. Rana, Learned Counsel, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard on I.A. No. 6991/2013, an application for condonation of delay. Looking to the facts of the case and the fact that there is a delay of 18 days in filing the appeal, the application (I.A. No. 6991/2013) is allowed and delay in filing the appeal is hereby condoned.

2. Also heard on admission.

3. This writ appeal has been filed by the appellants-State against the order dated 14-05-2013 passed in Writ Petition No. 9309/2012(S).

4. By the aforesaid order, the writ Court has held that the respondent is eligible to receive benefit of pay scale of 6th Pay Commission w.e.f. 01-01-2006 with all consequential benefits. Earlier the respondent filed an application before the labour Court in regard to his classification and payment of regular pay scale. The labour Court vide order dated 27-10-1999 allowed the application and ordered that the respondent be classified and he shall be given the pay w.e.f. 01-03-1981 after adding increments and also his pay be fixed w.e.f. 12-05-1995. Against the aforesaid order, the appellants filed an appeal before the Industrial Court. The Industrial Court disposed of the appeal vide order dated 23-04-2002 with some modification that the respondent shall not be eligible for increments w.e.f.

01-03-1981. Thereafter, vide an order dated 17-07-2000, the appellants fixed pay of the respondent and he was placed in the establishment of work-charged contingency. It is mentioned that this order shall be subject to the order that may be passed in the appeal. The appeal was already disposed of.

5. The pay of the respondent was fixed by the Department and he was also given benefit of 5th Pay Commission. When he was not given benefit of 6th Pay Commission, he filed a petition i.e. Writ Petition No. 9309/2012 before the writ Court. The writ Court allowed the writ petition vide order dated 14-05-2013 after holding that when the benefit of 5th Pay Commission was granted to the respondent, he is eligible to receive the benefit of 6th Pay Commission also.

6. Learned Additional Advocate General has contended that regular pay scale could not be granted to a classified employee. He further contended that the aforesaid point is pending before Hon''ble the Supreme Court in a Special Leave Petition.

7. The contention advanced by learned Additional Advocate General could not be accepted in the facts and circumstances of the present case because in the present case, the labour Court ordered that the respondent shall be paid pay scale. Thereafter, the Industrial Court also upheld the order of the labour Court. The appellants did not file any appeal against the order passed by the Industrial Court. It means that the order passed by the Industrial Court has attained finality. Thereafter, the respondent was also granted benefit of 5th Pay Commission. Hence, in our opinion, learned writ Court has rightly held that the respondent is eligible to receive benefit of 6th Pay Commission. We do not find any merit in this writ appeal. It is hereby dismissed.