
(2013) 09 MP CK 0243
In the Madhya Pradesh High Court
Case No : W.A. No. 425 of 2013

State of M.P.

APPELLANT

Vs

Om Prakash Parihar

RESPONDENT

Date of Decision : 18-09-2013

Acts Referred:

Citation : (2013) 09 MP CK 0243

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

Bench : Division Bench

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

Final Decision : Dismissed

Judgement

1. Heard on I.A. No. 6982/2013, 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. 6982/2013) 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. 4857/2012(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 24-05-1999 allowed the application and ordered that the respondent be classified and he shall be given difference of salary w.e.f. 12-05-1995. Against the aforesaid order, the appellants filed an appeal before the

5. Industrial Court. The Industrial Court dismissed the appeal vide order dated 27-04-2001. Thereafter, vide an order dated 22-04-2000, the appellants fixed

the respondent in the minimum pay of regular pay scale in the establishment of work-charged contingency.

6. 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. 4857/2012(S) 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.

7. 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.

8. 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 be classified and he shall be given difference of salary w.e.f. 12-05-1995. Against the aforesaid order, the appellants filed an appeal before the Industrial Court, that was dismissed by the Industrial Court vide order dated 27-04-2001 and 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.