
(2013) 09 MP CK 0287
In the Madhya Pradesh High Court
Case No : W. A. No. 428 of 2013

State of M.P.

APPELLANT

Vs

Sirnan Singh

RESPONDENT

Date of Decision : 18-09-2013

Acts Referred:

Citation : (2013) 09 MP CK 0287

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. 6985/2013, 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. 6985/2013) 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. 4866/2012(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 07-05-1999 ordered that the respondent shall be eligible for classification and further ordered for fixation of pay of the respondent w.e.f. 12-05-1995. The labour court further ordered that the respondent shall be eligible to receive the difference of salary w.e.f. 12-05-1995. Against the aforesaid order, the appellants filed an appeal before the Industrial Court, that was also dismissed vide order dated 25-09-2002. Thereafter, the appellants filed

a petition before this Court, which was registered as Writ Petition No. 2136/2003. It was also dismissed vide order dated 16-07-2003. The Chief Engineer, Rajghat Canal Project, Datia vide order dated 26-05-2004, copy of which was filed before the writ Court as Annexure P-3, granted benefit to the respondent of pay scale of Rs. 2550/-.

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. 4866/2012(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.

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. 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 eligible for classification and ordered for fixation of pay of the respondent w.e.f. 12-05-1995. The labour court further ordered that the respondent shall be eligible to receive the difference of salary w.e.f. 12-05-1995. Against the aforesaid order, the appellants filed an appeal before the Industrial Court, that was also dismissed. Thereafter, writ petition filed by the appellants was also dismissed vide order dated 16-07-2003. 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.