

(2013) 10 MP CK 0255
In the Madhya Pradesh High Court
Case No : WA 495 of 2013

State of M.P.

APPELLANT

Vs

Vishram Gaur

RESPONDENT

Date of Decision : 28-10-2013

Acts Referred:

Citation : (2013) 10 MP CK 0255

Hon'ble Judges : Krishn Kumar Lahoti, Acting C.J.;S.K. Gangele, J

Bench : Division Bench

Advocate : Raghvendra Dixit, for the Appellant; Alok Sharma, for the Respondent

Final Decision : Disposed Off

Judgement

1. IA 8208/2013 for condonation of the delay. There is delay of sixty days in filing this appeal. Learned counsel for the respondent has no objection if the delay in filing the appeal is condoned and the matter is heard on merits. In view of the aforesaid, this application is allowed and the delay in filing the appeal is condoned. Looking to the short controversy involved in this appeal, with the consent of the parties, the matter is heard finally.

2. This writ appeal is directed against the order dated 14/5/2013 passed in WP 3990/2011 (s) by which the writ petition preferred by the petitioner (respondent herein) was finally disposed of. The order reads thus:

This is not in dispute that Labour Court by order dated 19/06/1998 granted classification to the petitioner on the permanent post of Mechanic w.e.f. 01/07/1988 with the benefit of difference of pay. This order was unsuccessfully tested before the Industrial Court and before this Court by the State Government. By Annexure-P/2 & P/3 both the Courts aforesaid rejected the appeal and petition filed by the State Government. In absence of any further challenge, the said order of the Labour Court has attained a finality. Thereafter, respondents passed an order Annexure-P/1 directing the petitioner, he will get

payment on daily rated basis on his classification. It is challenged in the present petition.

Shri Newaskar submits that similar petitions are pending before the Supreme Court. I am not impressed with the arguments of Shri Newaskar. So far petitioner is concerned, the order in his favour granted him classification and arrears arising thereto has attained a finality till this Court and it was not challenged any further. Any subsequent round of litigation between the different litigants will not take away or adversely effect the petitioner for whom the litigation has come to an end.

Consequently, the impugned order Annexure-P/1 deserves to be and is accordingly set aside. Petitioner shall be entitled to get regular salary from the date ordered by the Labour Court with all benefits. The entire exercise of calculation of arrears be completed and paid to the petitioner within four months. If it is not paid within the aforesaid period, it will carry 6% interest till the date of realization.

3. It is submitted by Shri Dixit, learned Government Advocate for the appellants State that the Writ Court erred in directing payment of regular salary from the date of the order passed by the Labour court, while the order passed by the Labour court was modified by the Industrial Court in appeal. He has referred to the order of the Labour Court dated 19/6/1998 in Case No. 299/96 MPIR by which the Labour Court had directed that the respondent be classified as permanent with effect from 1/7/1988 and from the date of his initial appointment, he be paid difference of salary. This order was subject matter of challenge in appeal before the Industrial Court and the Industrial Court vide order dated 19/2/1999 modified the order of the Labour Court and directed that from 19/8/1996, i.e. two years before filing of the petition before the Labour Court, the respondent shall be entitled for regular pay scale and the appellant herein (State) was directed to make payment of difference of wages. Rest of the claim allowed by the Labour Court in respect of payment of difference of salary was rejected. Aforesaid order was the subject matter of challenge in Writ Petition No. 1899/1999 and by the order dated 5/9/2002 the order of the Industrial Court was affirmed and the writ petition preferred by the State was dismissed. This order has attained finality.

4. It is submitted by Shri Dixit that the order passed by the Labour Court was modified by the Industrial Court, so, the order passed by the Writ Court dated 14/5/2013 may be modified and it may be directed that the order passed by the Industrial Court may be given effect to. To this, learned counsel for the respondent has no objection.

5. Considering the factual position, the aforesaid contention appears to be just and proper and accordingly, we modify the impugned order passed by the Writ Court and direct the appellants herein to comply with the order passed by the Industrial Court.

6. With the aforesaid modification, this writ appeal is finally disposed of. No order as to costs. Certified copy.