
(2014) 08 MP CK 0089
In the Madhya Pradesh High Court
Case No : W.A. No. 103/2014

The State of Madhya Pradesh	Vs	APPELLANT
Suresh Sharma		RESPONDENT

Date of Decision : 25-08-2014

Acts Referred:

Citation : (2014) LabIC 4132

Hon'ble Judges : S.K. Gangele, J;B.D. Rathi, J

Bench : Division Bench

Advocate : Vivek Khedkar, Deputy Advocate General, Advocate for the Appellant; Alok Kumar Sharma, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

1. Heard on I.A. Nos. 2022/2014 and 2546/2014.
2. Counsel for the respondent has no objection in allowing the applications. Hence, applications are allowed. Delay in filing the appeal is hereby condoned.
3. Heard on appeal.
4. This writ appeal has been filed by the appellants/State against the order dated 14/12/2011 passed by the learned Single Judge in W.P. No. 621/2010 (S).
5. The respondent employee filed a petition before the writ Court claiming pay scale of the post on which he has been classified as permanent employee. He pleaded that he was classified as permanent employees as per the statutory provisions of M.P. Standing Standard Orders, however, he had not been paid the pay scale to the post on which he was classified. The learned Single Judge after considering the various judgments of this Court has held that the respondent employee is eligible to receive the pay scale after her classification.
6. The main question for consideration in this appeal is that whether after classification an employee is entitled to receive salary of a regular employee. This point has already been decided by the Single Bench of this Court in the case

of State of Madhya Pradesh and Others Vs. Hariram and Others, and the Division Bench has also confirmed the ratio of the decision in the case of Bhashkar Sharma Vs. State of M.P. & Ors, W.P. No. 3657/2008 (S), decided on 12-1-2009.

7. Thereafter an SLP (Civil) CC 9289/2010 has been filed before the Hon''ble Supreme Court, that has also been dismissed.

8. Before the Division Bench of Main Seat at Jabalpur, the State Government filed bunch of writ appeals arising out of the same issue, those have also been dismissed vide order dated 1-11-2011. In one of the Writ Appeal i.e. W.A. No. 1266/2010 (State of M.P. & Others Vs. Madan Singh Kushwah), the Division Bench of this Court has held as under :-

"We find that the consideration of the consequences flowing from the unchallenged orders of classification in the impugned order passed by the learned Single Judge is based upon a decision of the learned Single Judge of this Court in the case of State of Madhya Pradesh and Others Vs. Hariram and Others, Although in that decision the case reported in Gangadhar Pillai Vs. Siemens Ltd. (supra) has not been considered, but the case of M.P. State Agro Industries Development Corporation (supra) has been considered. We do not find any such difference in the aforesaid two Supreme Court decision which would call for a departure from the view taken by the learned Single Judge in the case of Hariram and others (supra).

Normally if an employee is classified as a permanent employee against a particular post, he should be entitled to all the benefits of that post unless, as held by the Supreme Court, such benefits are excluded either by contract between the employer and employee or by operation of some law. No such contractual or legal restriction has been brought to our notice.

Whether an employee comes by way of normal recruitment process or through the process of classification, the fact remains that both i.e. the normally recruited employee and a classified employee work on the same post and perform the same duties. It cannot be held that the classification has any less effect or force as compared to the normal process of appointment, because the classification is also based upon the law in the form of Standing Orders and as such both employees who have been brought into service through either of the two processes permitted by law, as permanent employees against a particular post, should be entitled to the same benefits. Taking a contrary view would mean that the employees inducted through classification process would be saddled with an undesirable disability throughout their service, as compared to other employees which may tantamount to violation of the principle of "equal pay for equal work". Our view finds support from another Division Bench decision of this Court reported in the case of State of Madhya Pradesh and Others Vs. Ram Prakash Sharma and Others,

For the aforementioned reasons, we do not find any good ground to interfere with the order passed by the learned Single Judge. Accordingly, the writ appeals

are dismissed."

9. Learned counsel for the respondent submits that the State has also been considering the cases of the employees for regularization, hence, the case of the respondent for regularization would not be affected due to passing of the order.

10. We find substance in the arguments. Hence, it is observed that the case of the respondent for regularization shall not be affected due to passing of the order.

11. It is informed by the learned Deputy Advocate General that similar matters are pending before the Hon"ble Supreme Court for adjudication. Copies of the orders passed by the Hon"ble Supreme Court in SLP Nos. 8473/2012, 3256/2012, 20098-20099/2010, 17875/2011 & 13278/2011 have been filed by the appellants/State along with the appeal.

12. Hence, looking to the aforesaid facts of the case, it is directed that the order passed by the learned Single Judge in Writ Petition shall be subject to the order that may be passed by the Hon"ble Supreme Court in the aforesaid Special Leave Petitions and upto the decision of the Hon"ble Supreme Court, the execution of the order passed by the learned Single Judge in Writ Petition shall remain stayed.

13. The writ appeal is disposed of accordingly. No order as to costs.