

(2012) 09 MP CK 0104

In the Madhya Pradesh High Court

Case No : Writ Petition No. 13006 of 2005

Umesh Kumar Shukla and Another

APPELLANT

Vs

The State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 06-09-2012

Acts Referred:

Citation : (2012) 09 MP CK 0104

Hon'ble Judges : Keshav Kumar Trivedi, J

Bench : Single Bench

Advocate : R.C. Tiwari, for the Appellant; Yogesh Dhande, Learned Deputy Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

Hon"ble Shri Justice Keshav Kumar Trivedi

1. The grievance of the petitioners is that they were selected for appointment under the Work Charged Contingency Establishment, on contingency post of Chowkidar sanctioned, after due process of selection but have not been extended the benefit of the regular pay scale. A demand to this effect was made but since nothing was done, the petitioners have come before this Court. It is contended that petitioners have completed more than the requisite years of service for grant of such benefit but despite issuance of a circular in this respect, the benefit is not extended, therefore, the respondents are liable to be commanded to grant such benefit from the date it become applicable to the petitioners and to pay the entire arrears of salary. On the basis of these submissions the petitioners further claimed that a writ of Mandamus be issued directing the respondents to grant the benefit of revised pay scale to the petitioners w.e.f 01/10/1989, the initial date of their appointment and to make the actual payment of arrears of salary. Refuting the allegations made in the writ petition, a return has been filed by the respondents. It has been contended that the petitioners were only contingency employee. It is said that the petitioners would not be entitled to the benefit of the regular salary as they were never appointed in the regular establishment. It

is thus contended that the writ petition is misconceived and is liable to be dismissed. A rejoinder has been filed by the petitioners and they have also amended the writ petition. Despite amendment in the writ petition, no additional return has been filed by the respondents though opportunity was granted by this Court. On the last date of hearing when the matter came up before this Court, a query was raised as to whether the petitioners would be entitled to the regular pay scale prescribed under the Contingency Establishment Rules on completion of three years of service or not. Nothing has been placed on record to indicate that the petitioner would not be entitled to the said benefit.

2. After hearing Learned Counsel for parties at length and after examining the return filed by the respondents it is clear that the petitioners were appointed on contingency post which were sanctioned by the respondent/State. It is categorically admitted by the respondents in their return that the petitioners were appointed on selection on contingency post available but were given initially the fixed salary as per the rate prescribed by the Collector. However, it is contended that since the petitioners were only temporary contingency appointees, they were not entitled to the regular pay scale. As to how such a statement is made, which is infact against the circular of the State Government, has not been explained. While issuing the circular on 14/10/1982 and reiterating the same on 10/05/1984, it was prescribed that if a person is appointed on contingency post, he will get the fixed wages for a period of three years and will get the revised pay scale, on completion of the aforesaid period of three years in case he is fulfilling the qualification prescribed for such appointment. It is not a case of the respondents that the petitioners were considered but were not found eligible to get the said benefit as they were lacking qualification prescribed for the post. On the other hand from the record it is clear that the petitioners were duly selected by the properly constituted committee and were appointed on the post. As such the petitioners were entitled to the benefit of regular pay scale after completion of three years of service on contingency post. This being so, denial of such a benefit to the petitioners is not justified.

3. Consequently the writ petition is allowed. The respondents are directed to grant the benefit of regular pay scale to the petitioners on completion of three years of service on contingency from the date of appointment i.e 22/09/1989 and to make the payment of salary in the regular pay scale of contingency employees. Accordingly pay fixation be done all the arrears be calculated and paid to the petitioners within a period of two months from the date of receipt of certified copy of the order passed today. The Writ petition is allowed and disposed of. There shall be no order as to costs.