
(2012) 05 MP CK 0012

In the Madhya Pradesh High Court

Case No : Writ Petition (S) No. 3739 of 2008

Virendra Kumar Sharma

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 15-05-2012

Acts Referred:

Citation : (2012) 5 MPHT 362

Hon'ble Judges : N.K. Mody, J

Bench : Single Bench

Advocate : L.C. Patne, for the Appellant; Vinita Phaye, Dy. Govt. Advocate for the Respondent Nos. 1 and 2, Mr. Arpit Verma, Advocate on behalf of Mr. Kuldeep Bhargava, Advocate for the Respondent Nos. 3 and 4, for the Respondent

Final Decision : Allowed

Judgement

N.K. Mody, J.—Heard. Prayed in the petition is to direct the respondents to release the pension and other retiral dues.

2. Learned Counsel for the petitioner submits that undisputedly the petitioner has completed qualifying service of 9 years 7 months with respondent Nos. 1 and 2 and the petitioner has rendered his services with respondent Nos. 3 and 4 for a period of more than 20 years. It is submitted that claim of the petitioner has been rejected on the ground that qualifying service of the petitioner with the State is less than ten years. It is submitted that since the petitioner has completed 9 years and 7 months, therefore, the case of the petitioner cannot be rejected on that ground. It is submitted that petition be allowed and necessary directions be issued to the respondents.

3. Learned Counsel for the respondents submits that since the petitioner has not completed qualifying service for a period of ten years, therefore, the petitioner has rightly been refused for pension. It is submitted that petition filed by the petitioner be dismissed.

4. Rule 43 of the M.P. Civil Services (Pension) Rules, 1976 deals with the amount

of pension. As per sub-rule (3) of Rule 43 of the Rules in calculating the length of service, fraction of a year equal to 6 months and above shall be treated as completed six monthly period.

5. Rule 34 of the M.P. Civil Services (Pension) Rules also deals with pension on absorption in or under a Corporation, Company or Body according to which a Government servant who has been permitted to be absorbed in a service or post in or under a Corporation or Company wholly or substantially owned or controlled by the Government in or under a body controlled or financed by the Government shall, if such absorption is declared by the Government to be in the public interest, be deemed to have retired from service on retiring pension from the date of such absorption and shall be eligible to receive retirement benefits, which he may have elected or deemed to have elected and from such date as may be determined, in accordance with the orders of the Government applicable to him.

6. In the matter of Municipal Corporation, Gwalior and Another Vs. Ramsewak, a Division Bench of Gwalior Bench has held that while counting of previous service period for the purpose of calculation of pensionary benefits and the period of service spent by the respondent with the State Government up to the year 1981 can be taken to be the period of service rendered with the Corporation.

7. After taking into consideration the fact that the petitioner had rendered the service with the Government for a period of 9 years and 7 months and thereafter with the Corporation for a period of 20 years and the fact that the services rendered by the petitioner with the Government was for a period of more than 9 years and six months, therefore, as per Rules, services rendered by the petitioner are covered under qualifying services and is entitled for pension. In view of the above, petition is allowed with a direction to the respondent Nos. 1 and 2 to release the pension within a period of two months from the date of receipt of the copy of the order passed by this Court. It is made clear that if the amount is not paid within a stipulated time, then the petitioner would be entitled to for interest @ 6% p.a.