
(2018) 07 MP CK 0138
In the Madhya Pradesh High Court
Case No : Conc. No. 379 OF 2017

Vishwavidhayalaya Pensioners Association & Another	APPELLANT
Vs	
B.R. Naidu & Others	RESPONDENT

Date of Decision : 16-07-2018

Acts Referred:

Citation : (2018) 07 MP CK 0138

Hon'ble Judges : Sanjay Yadav, J;S.K. Awasthi, J

Bench : Division Bench

Advocate : M.P.S. Raghuvanshi, D.P.S. Bhadoriya, N.S. Kirar, Akash Chaturvedi, Tapan Trivedi

Judgement

Alleging willful disobedience of order dated 26/07/2016 passed in Writ Petition No. 5399/2005, the petitioners have filed this contempt case.

The order passed in said writ petition was in the following terms:-

â??The present petition has been filed by the petitioners challenging the order dated 09-05-2005 (Annexure P/1) and 1910-2005 (Annexure P/1-A)

issued by respondent No.2.

Petitioners are seeking quashment of the said orders with a direction to the respondents to continue to make payment of pension to the petitioners

without any delay.

The main contention of the petitioners is that they are retired teaching staff/employees of respondent No.3 University and they are entitled to get the

same pension as the State Government teaching staff/employees are receiving.

At the commencement of the arguments, learned counsel for the petitioners placed reliance over the order dated 03-02-2015 passed by the Indore

Bench in Writ Petition No.12169/2013 (S) whereby the similarly situated person

(professor of Vikram University, Ujjain) has been granted the same pensionary benefit in view of the notification dated 03-08-2009 issued by the State Government.

According to the counsel for the petitioners, facts of the said case are identical to the facts contained in the present writ petition. The said order has been confirmed by the Division Bench in writ appeal and subsequently before the Supreme Court. Counsel for respondent No.3 University agreed in affirmative and submitted that the case of the petitioners of writ petition No.12169/2013(S) is identical.

On the other hand, counsel for respondents/State could not distinguish the facts of the said case vis a vis the facts of the present case and could not dispute passing of order dated 03-02-2015 in W.P.No.12169/2013 (S).

Thus, the present petition is disposed of in the same terms and similar directions issued in the said writ petition.

Resultantly, the writ petition is allowed. State of Madhya Pradesh is directed to extend all the pensionary benefits to the petitioners in view of the notification dated 03-08-2009. Exercise of grant of pension, arrears of pension and other benefits by issuing revised Pension Payment Order be completed within a period of 90 days from the date of receipt of certified copy of this order.

Evidently, the petitioners had filed the writ petition whereby they sought quashment of communication dated 09/05/2005 by Commissioner, Higher Education, addressed to all the Registrars of the Universities in the State of Madhya Pradesh, relating to updating and up-funding of the contribution by the Universities under the Contributory Provident Fund to be deposited in the pension fund.

Learned Single Judge, on the basis of certain decision by the Co-ordinate Bench at Indore and taking into consideration that the matter since relates to pension of the University retirees, disposed of the petition with the direction to the State to consider the claim of respective pensioners and finalize the same as per notification dated 03/08/2009.

The notification which was adverted to was a Pension Revision Order, 2009, issued by the State of Madhya Pradesh laying down the parameters as to how the pension of post and pre 01/01/2006 retirees was to be determined.

The notices were issued in the present contempt case to the respondents

whereon after due deliberations, the State Government has filed the compliance report on 18/06/2018, where in paragraph No. 3, it is stated:-

3. That, in compliance of the order passed by Hon'ble High Court, respondent authorities have made payments after calculating the entire amount

to be paid to the 93 pensioners, out of which payments to 7 pensioners were already made and for remaining 86 pensioners amount has been

calculated and paid to them. Copy of letter dated 13.6.2018 giving information with respect to above proceedings is filed herewith and marked as

Annexure C/1.

An objection is raised on behalf of the petitioners stating therein that the State of Madhya Pradesh has not fully complied the order passed in the Writ

Petition stating therein that there are 127 members of the petitioners' association who retired prior to 01/01/2006 and 119 members who retired after

01/01/2006. It is stated that all the pensioners are not paid the entire pension nor have been paid the arrears arising from the recommendations of the

Sixth Pay Commission. It is urged that 127 pensioners, retired prior to 01/01/2006, are not given the benefit of Sixth Pay Commission, nor are being

benefited by dearness relief increased from time to time.

It is further contended that 119 persons retired after 01/01/2006 of whom only 93 retirees are benefited from revised pension. It is urged that even

pensioners who have attained the age of 80 years and 85 years are also not benefited from Pension Revision Rules, 2009.

On these contentions, learned counsel for the petitioners submits that the order passed in writ petition has not been complied with in letter and spirit.

Considered the rival contentions.

The compliance report reflects that substantial compliance of the order dated 26/07/2016 passed in Writ Petition No. 5399/2005 has been effected by

the State and its functionaries.

In compliance report filed on 16/04/2018, it is stated in paragraph No. 3 that in compliance of the order passed in writ petition, the respondents/

authorities have got sanction from the Finance Department and after receiving the permission from the Finance Department, an order has been passed

on 13/11/2017 stating therein that:-

3. That, in compliance of the order passed by Hon'ble High Court, respondent authorities have made payments after calculating the entire amount

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It is further submitted that the Pension Payment Orders were issued in
 consonance therewith. The copy of order dated 13/11/2017 is brought on
 record as Annexure C-1 to substantiate the contentions.

In compliance report filed on 18/06/2018, it is stated that the payment of entire
 amount has been calculated in favour of the 93 pensioners, out of
 which payment to 7 pensioners have already been made and for remaining 86
 pensioners amount has been calculated and paid to them.

That a communication dated 13/06/2018 has also been filed by the functionaries
 of the State

Government stating therein:-

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Evident it is from these facts brought on record by respondents supported by an affidavit that there is substantial compliance of the order passed in

writ petition. However, it also appears that some of the retirees are yet to receive the revised pension and arrears in pursuance of the order passed in

writ petition.

In view whereof, instead of further proceeding in the matter, the contempt petition is dropped with a direction to respondents to extend the benefits in

pursuance to the Pension Revision Order, 2009, to all pre and post 01/01/2006 retirees within a period of 03 months from the date of communication of

this order.

In case, any of the retirees have any grievance qua non settlement of the pensionary dues, the individuals are at liberty to take recourse to law.

With these observations, contempt proceedings are dropped. Rule Nisi discharged.