

(2020) 08 MP CK 0272

In the Madhya Pradesh High Court

Case No : Writ Petition No. 9304 Of 2018

?V.M. Jose S/o Late Mr. Thomas

APPELLANT

Vs

Shri Govindram Seksaria Institute Of Technology And
Science, Indore

RESPONDENT

Date of Decision : 31-08-2020

Acts Referred:

Citation : (2020) 08 MP CK 0272

Hon'ble Judges : Vandana Kasrekar, J

Bench : Single Bench

Advocate : Ritu Bhargava, H.Y. Mehta

Judgement

1. The petitioner has filed the present writ petition challenging the inaction of the respondent in not recommending of Authorized Committee benefits sanctioning the 1st and 2nd Time Pay Scale to the petitioner vide its order dated 07/03/2016 as well as for quashing Annexure-P/8 and P/12) by which the respondent has recovered the amount which has already been paid to the petitioner.

2. Facts in brief are that the petitioner was employed in the respondent/ Institution w.e.f. 31/03/1984 and he worked till the date of his superannuation i.e. on 31/08/2015. On 20/04/1998, he was appointed through open selection, as Assistant Registrar and he occupied the said post till his retirement on 31/08/2015. On 02/03/2009, an order granting the petitioner his 1st Time Pay Scale w.e.f. 20/04/2006 was passed and he began to draw the enhanced salary. However, just 11 days before his retirement, the Institution has passed another order withdrawing the Time Pay Scale on the purported objections, which were never supplied to him. In fact the Institution has ordered for recovery of the enhanced amount of Rs.3,53,000/-from the petitioner's retiral benefits. Thus, the said amount representing the difference in salary for 115 months was illegally recovered from the petitioner's gratuity in a discriminatory manner without giving him any opportunity of hearing. No other similarly placed employee was dealt with in this way. Thereafter, on 07/03/2016, another order was passed

sanctioning the 1st and 2nd Time Pay Scale benefits to him by the Authorized Committee alongwith 30 other employees. However, the said recommendation has not been implemented till date, therefore, the petitioner is entitled to receive over Rs.6,00,000/- including interest withheld by the respondent/Institution, therefore, the petitioner has filed the present petition.

3. Learned counsel for the respondent has denied all the allegations made in this petition and stated that dispute regarding the recovery of amount from the Government Institution is referred to Larger Bench in Writ Appeal No.815/2017 (State of M.P. Vs. Jagdish Prasad Dubey) and in the said case, the Division Bench of this Court has held that employer is entitled to recover the amount, if employee is given his undertaking that in case any excess amount in payment, then, the same can be recovered.

4. However, in the judgment of Division Bench at Indore has held that inspite of undertaking employer cannot recover the amount, therefore, the matter has been referred to Larger Bench in W.A. No.815/2017 and number of cases are pending before the Apex Court, therefore, looking to the controversy involved in this case and the fact matter is pending before Apex Court, the present case is adjourned, to be listed after the decision of Apex Court in due course.