

HIGH COURT OF MADHYA PRADESH, JABALPUR

Writ Petition No.10141/2016 (S)

Anchal Khare and others Petitioners

Versus

State of M.P. and others Respondents

Writ Petition No. 10346/2016 (S)

Pradyumna Barve and others Petitioners

Versus

State of M.P. and others Respondents

Writ Petition No. 10717/2016 (S)

Pushpendra Kumar Jain and others Petitioners

Versus

State of M.P. and others Respondents

Writ Petition No. 10887/2016 (S)

Smt. Mukti Mitra and others Petitioners

Versus

State of M.P. and others Respondents

Writ Petition No. 10997/2016 (S)

Shri U.S. Dubey and others Petitioners

Versus

State of M.P. and others Respondents

Writ Petition No. 11207/2016 (S)

Suresh Kumar Ramje and others Petitioners

Versus

State of M.P. and others Respondents

Writ Petition No. 11568/2016 (S)

Ramlal Kachhi and others Petitioners
Versus
State of M.P. and others Respondents

CORAM

Hon'ble Shri Justice Rajendra Menon, Acting Chief Justice
Hon'ble Shri Justice Anurag Shrivastava, J.

Whether approved for reporting ? Yes/No

Shri Sanjayram Tamrakar, counsel for the petitioners in
W.P. No.10141/2016.

Shri Greeshm Jain, counsel for the petitioners in W.P.
Nos.10346/2016, 10717/2016, 10997/2016, 11207/2016 and
11568/2016.

Shri M.B. Shrivastava, counsel for the petitioners in W.P.
No.10887/2016.

Shri Amit Seth, Govt. Advocate for the respondents/State.

Shri Khalid Noor Fakhruddin, counsel and Smt. Smita
Arora, counsel for respondent/High Court in the respective
petitions.

Shri J. K. Jain, Assistant Solicitor General for
respondent/NIC.

ORDER (ORAL)
(2.8.2016)

Per Rajendra Menon, Acting Chief Justice:

As common questions of law and fact are involved
in all these petitions, they are being decided and disposed of by
this common order.

02. All the petitioners in these writ petitions are working as Private Secretaries, Personal Assistants, Stenographers, Dealing Assistants and Readers (Assistant Grade-I, II and III) in the establishment of the High Court of Madhya Pradesh in its Principal Seat, Jabalpur and Benches at Indore and Gwalior. Their grievance in these writ petitions is that a circular was issued by the State Government on 6.2.2006 wherein it was stipulated that such employees, who are working in the Department of the State Government and who have acquired Computer training and are performing the duties on Computer would be entitled to get one advance increment in their pay scale. This Circular, admittedly is applicable to the employees working in the High Court also. It is the case of the petitioners that various Private Secretaries, Personal Assistants working in the High Court approached this Court by filing a writ petition being **W.P. No.12432/2013 (Mehfooz Ahmed and others Vs. State of Madhya Pradesh and others)** and a coordinate Bench of this Court vide order passed on 20.8.2014 found that in the Circular dated 6.2.2006, Clause-9 has been incorporated and in Paragraphs No.9 and 10 of the order, the Court while allowing the writ petition held as under :-

“9. Clause-9 of Circular dated 06/02/2006 issued by General Administration Department reads as under:-

“ऐसे विभाग जहां कम्प्यूटर उपलब्ध है में एक वर्ष में सफलतापूर्वक प्रशिक्षण पूरा करने पर एक अग्रिम वेतन वृद्धि एवं जहां कम्प्यूटर नहीं है वहां तीन वर्ष में सफलतापूर्वक प्रमाणीकरण प्राप्त करने पर एक अग्रिम वेतन वृद्धि स्वीकृत की जाएगी”

Thus, from scrutiny of Clause-9 of Circular it is evident that in a department where computer is available, if an employee successfully completes training in one year, he shall be entitled to one advance increment and in case in a department where computer is not available, if an employee completes training within three years, on due certification, he shall be entitled to one advance increment. In other words in a department where the computer is available, if an employee receives training within one year, he becomes entitled to one advance increment and such entitlement is not dependent on completion certificate. Admittedly, the High Court is well equipped with the facility of computer and the petitioners have received training in NIC Computer Cell set up in Madhya Pradesh High Court, therefore in our considered opinion, there is no requirement of obtaining any certification in respect of the training in case of petitioners and the interpretation put forth by the respondents on the circular dated 06/02/2006 cannot be accepted.

9. In view of preceding analysis impugned memo dated 19/08/2011 as well as 07/11/2012 are hereby quashed. The respondents are directed to accord the benefit of one advance increment to the petitioners from the date on which the petitioners have become entitled to such benefit, within a period of three months from the date of receipt of certified copy of the order passed today.”

03. Challenging this order passed by the Division Bench, a Special Leave Petition before the Supreme Court was filed by the State Government and the Special Leave Petition

has also been dismissed by the Supreme Court vide order passed on 27.11.2014 (Annexure R-1) on the following terms :-

“Taken on Board.

Dismissed.

However, the order passed by the High Court shall not be treated as a precedent in any other case.”

04. It is stated that in view of the aforesaid order of the Supreme Court indicating that the order shall not be treated as a precedent, in the case of petitioners, who represented and claimed similar benefit, their applications/representations have been rejected on the same ground on which it was rejected in the case of **Mehfooz Ahmed** (supra). Therefore, seeking similar benefit as has been granted to various employees who were petitioners in the case of **Mehfooz Ahmed** (supra), these writ petitions have been filed.

05. Learned counsel appearing for the petitioners took us through the order passed in detail by this Court in the case of **Mehfooz Ahmed** (supra) and argued that all the petitioners are computer trained by the High Court itself through NIC as was done in the case of **Mehfooz Ahmed and others** (supra). The entire working of the High Court not only at Principal Seat, Jabalpur but also in the Benches at Indore and Gwalior

have been computerized. No work through manual use of typewriters is being undertaken. Even the Dealing Assistants and Readers have been provided with computers and desktops to do their day to day working. It is pointed out that in the High Court of Madhya Pradesh the system of listing of cases by computers and CMIS has been implemented. As a result, data pertaining to every case in the Court proceedings has been computerized and even the Readers are required to operate the computers at the time of hearing of each case. It is emphasized that as the petitioners in this case are discharging their day to day duties only by use of computers, they are also entitled for the similar benefit, as they fulfill the requirement of Clause 9 of the Circular dated 6.2.2006. Learned counsel further pointed out that in the return filed by the High Court all these factual positions have been admitted, but, they only point out in paragraph No.7 that the Circular dated 6.2.2006 passed earlier has been cancelled by another Circular dated 26.9.2014, which has been filed as Annexure P-7 to this petition. However, Shri Sanjayram Tamrakar, Shri Greeshm Jain and Shri Shrivastava point out that in this Circular dated 26.9.2014 it has been clearly indicated that such of the employees who fulfill the

condition of Clause-9 of the original Circular dated 6.2.2006, before 26.9.2014, would be entitled to the said benefits. They argued that under this condition, all the petitioners who fulfill the condition as per Clause-9 of the earlier Circular dated 6.2.2006 are entitled to the benefit and, therefore, to that extent the petition should be allowed. They also argue that when the judgment rendered in the case of **Mehfooz Ahmed** (supra) has been implemented to all other similarly situated employees there cannot be discrimination in the matter of petitioners alone who are also discharging identical duties as is being done by their co-employees i.e. the beneficiary of the order passed in the case of **Mehfooz Ahmed and others**.

06. Shri Amit Seth, learned G.A. appearing for the State Government argued that the case of **Mehfooz Ahmed** was decided on the basis of the Circular dated 6.2.2006 and now as the said Circular dated 6.2.2006 has been cancelled and a new Circular dated 26.9.2014 has been brought into force the petitioners cannot claim any further benefit on the basis of the Circular dated 6.2.2006.

07. Learned counsel appearing for the High Court

namely Shri K. N. Fakhruddin and Smt. Smita Arora invite our attention to the order passed by the Supreme Court and contend that as the order passed in the case of **Mehfooz Ahmed** (supra) is not to be treated as a precedent the High Court had rejected the earlier representation of the petitioners. However, in the return filed by the High Court it is said that in the light of the Circular dated 26.9.2014 such of the employees who fulfill the condition of Clause-9 of the earlier Circular dated 6.2.2006 before 26.9.2014 would be entitled to the said benefit. The averments made by the High Court in Paragraph No.7 of the return may be taken note of in this regard. During the course of hearing our attention is also invited towards another judgment of a coordinate Bench of this Court in **W.P. No.6426/2015 (Smt. Beena Banerjee and others Vs. State of M.P. and others)**, wherein similar claim made by other co-employees have been allowed. However, Shri Fakhruddin submits that in the case of **Smt. Beena Banerjee and others** (supra) after considering the case of the employees in certain cases the representations have been rejected.

08. Be that as it may, the fact remains that in the case of **Mehfooz Ahmed** (supra) the matter was considered by this

Court and after taking note of Clause-9 of Circular dated 6.2.2006 the findings recorded in Paragraph No.9 reproduced hereinabove clearly show that in a department where computers are available, if an employee receives training within one year, he becomes entitled for one advance increment and such entitlement is not dependent upon any completion certificate. The Bench takes note of the fact that the High Court is well equipped with the facility of computers. The petitioners and employees working in the High Court have received the training in the NIC computer cell set up by the High Court and therefore, the benefit was allowed.

09. Now the only question before us is as to what would be the effect of subsequent Circular issued by the State Government vide Annexure P-7 dated 26.9.2014 cancelling the Circular dated 6.2.2006 based on which the case of **Mehfooz Ahmed and others** (supra) was allowed and payment made to the employees. This circular dated 26.09.2014 has been clarified vide order dated 23.01.2016 (Annexure P-11 available at page No.72) and in this circular the following stipulations have been made:-

“माननीय उच्च न्यायालय के निर्णय अनुसार कम्प्यूटर प्रशिक्षण पर एक अग्रिम वेतनवृद्धि दिये जाने संबंधी आदेश दिनांक 27.11.2014 के संबंध में लेख है कि कम्प्यूटर प्रशिक्षण प्राप्त कर्मचारियों को एक वेतनवृद्धि दिये जाने संबंधी सामान्य प्रशासन विभाग का परिपत्र दिनांक 06.02.2006 जो परिपत्र दिनांक 26.09.2014 द्वारा निरस्त किया गया है, किन्तु दिनांक 26.09.2014 के पूर्व जिन कर्मचारियों द्वारा परिपत्र दिनांक 06.02.2006 की कंडिका-9 की पूर्ति की गई है, उन्हें वेतनवृद्धि की पात्रता होगी।

10. From the aforesaid clarification issued on 23.01.2016 to the cancellation order dated 26.09.2014 it is clear that such of the employees, who fulfill Clause-9 of the earlier circular dated 06.02.2006 before 26.09.2014 would be entitled to one advance increment. Accordingly, it cannot be held or construed that the circular dated 06.02.2006 stands cancelled or withdrawn in its totality and therefore, no benefit can be granted to any of the petitioner. The clarificatory order dated 23.1.2016 clearly stipulate that such of the employees, who fulfill the requirement of Clause-9 of the earlier circular dated 6.2.2006, before 26.09.2014 would be entitled to the benefit of one advance increment. Therefore, such of the petitioners, who fulfill the condition of Clause 9 of the Circular dated 6.2.2006 prior to 26.09.2014 are entitled to the benefit, they are also identically situated like other co-employees, who were granted the benefit by virtue of the order passed in the case of **Mehfooz Ahmad** (supra). Therefore, we **allow** these petitions and direct

that all such petitioners, who fulfill the condition of Clause-9 of the circular dated 06.02.2006 before 26.09.2014, be extended similar benefit and one advance increment be paid to them in accordance with law and in case of such employees who do not fulfill this condition, the High Court shall pass a detailed speaking order and communicate it to them within a period of 60 days. In case of all other employees, who fulfill the condition, the benefit of one advance increment with effect from the date, as may be applicable, be released to them forthwith. Such of the cases where the representations have been rejected, the orders rejecting the representations, are quashed and the High Court is directed to grant benefit to the employees in whose cases the representations had been rejected subject to the condition stipulated hereinabove.

11. With the aforesaid, all these petitions stand **allowed** and disposed of.

(Rajendra Menon)
Acting Chief Justice

(Anurag Shrivastava)
Judge

Anchal