



**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

ON THE 31st OF OCTOBER, 2025

WRIT PETITION No. 2011 of 2015

SURENDRA MOHAN MUDIA

Versus

THE STATE OF MADHYA PRADESH THR AND OTHERS

Appearance:

Shri Girija Shankar Sharma - learned counsel for petitioner.

Shri B.M. Patel - learned Government Advocate for respondents/State.

ORDER

With the consent of parties, the matter is heard finally.

2. This petition, under Article 226 of the Constitution of India, has been filed by petitioners seeking following relief (s):

"(1) That, the respondents' authorities may kindly be directed to revise the impugned order/letter dated 07.11.2014 (P-1) alongwith entire proceedings of calculating of arrears of salary of petitioner.

(2) That, the respondents' authorities may kindly be directed to pay the arrears of salary of petitioner w.e.f 02.09.1988 (Date



from which petitioner is confirmed in his services) alongwith 12% interest per annum.

(3) That, the respondents' authorities may kindly be directed to grant 12% interest per annum on Rs.11,97,337/- from 20.03.2002 to 07.11.2014 on the paid amount which is calculated vide impugned order dated 07.11.2014 (P-1) to the petitioner for which petitioner is entitled.

(4) That, the respondents' authorities may kindly be directed to grant the seniority to the petitioner in the new department from the date of his regularization i.e. from 02.09.1988 and grant benefit accordingly of promotion and others benefit and also amend gradation list.

(5) That, the respondents' authorities may kindly be directed to grant first and second Time Bound Kramonati to the petitioner as petitioner has completed near about 25 years of service.

(6) That, the respondents' authorities may kindly be directed to revise his pay after granting entire service benefits as stated in above paras to the petitioner.

(7) That, any other suitable writ order or direction for doing justice in the matter may kindly be issued. Cost of the petition may kindly be awarded.

(7.8) That the order date 4.9.2014 (Ann. R/2) may kindly be set aside and respondents authority be further directed to absorbed the services of the petitioner w.e.f. 02.09.1988 and granted the arrear accordingly.

(7.9) That the respondents authority be directed to count the services of petitioner since 26.10.1989 for the pensionary benefit and grant the pension to the petitioner after his retirement."



3. Learned counsel for the petitioner submits that petitioner was initially appointed in the office of the Cane Development Council, Dabra, District Gwalior, on 01.12.1981. Thereafter, the services of the petitioner were regularized w.e.f. 02.09.1988 on the basis of the meeting held on 06.09.1989. Pursuant to the aforesaid decision taken in the meeting, order dated 26.10.1989 was issued by the Cane Council, Dabra, whereby the services of the petitioner were confirmed/regularized in the pay scale of Rs. 870-20-910-25-2010 w.e.f. 02.09.1988. Thereafter, the respondents issued a letter dated 07.02.1996, which shows that one Ramswaroop Meena was working in the Cane Council, Dabra, whereas he had been posted in the office of the Commissioner, Bhopal, by order dated 31.05.1993. Thereafter, vide order dated 19.05.2002, the respondent/concerned authority posted the petitioner in the office of the Deputy Director, Agriculture, Datia, on the post of Clerk/ Assistant Grade III and since then till his retirement, the petitioner worked in the office of the Deputy Director, Agriculture, Datia. However, the respondent did not pay salary to petitioner from July 2003. Therefore, the petitioner filed Writ Petition No. 1254/2005 before this Court, which was allowed on 18.12.2008. The relevant part of the order dated 18.12.2008 passed in W.P. No. 1254/2005 reads as under:

“ It is really unfortunate that the respondent State has taken a stand that salary is not being paid for want of fund an employee is discharging his duties and is continuing in service there appears to be no justification in not making payment of salary to the concerned employee. The petitioner has not been paid salary since July, 2003 to March, 2005 and therefore, the respondents are directed to pay the arrears of salary to the petitioner within a period of three months from the date of receipt of certified copy of this Order. It is needless to mention



that respondents shall also pay regular salary to the petitioner as he is still in service and serving the respondent State.”

4. Thereafter, the respondents did not comply with the order dated 18.12.2008. On account of non-compliance of the said order, the petitioner filed a contempt petition. Being aggrieved by the order dated 18.12.2008 passed in W.P. No. 1254/2005, the respondents/State filed a writ appeal bearing W.A. No. 67/2012, which was disposed of on 23.11.2012 by the Division Bench of this Court. The relevant part of the order dated 23.11.2012 passed in W.A. No. 67/2012 is quoted below:

“ The other similarly situated persons were earlier absorbed in the services of Agriculture Department as mentioned by Assistant Director, Agriculture and Secretary, Cane Development Council in the letter dated 7.2.1996. The Collector, District Datia in his letter dated 27.12.2004 filed along with the petition before the Writ Court as Annexure P/16 clearly mentioned that vide an order dated 19.3.02/20.03.02 the respondent was posted in the Office of Deputy Director, Agriculture, District Datia from Cane Development Council.

From the aforesaid facts, it is clear that the respondent has been working in the Office of Deputy Director, Agriculture, District Datia since 2002. This fact has not been denied by the appellants-State in the return. The respondent was appointed as Lower Division Clerk on regular basis in the pay scale of Rs.870-1420/- vide order dated 26.10.1989. It was equivalent to the pay scale applicable to lower Division Clerk in Agriculture Department. Now, the appellants State have admitted that Cane Development Council dissolved w.e.f. 31.12.2003. In such circumstances, in our opinion, the learned Single Judge has rightly issued a direction to the appellants-State in regard to payment of regular salary to the respondent of Lower Division Clerk. It is also an obligatory on the part of the appellants-State



to consider the case of absorption of the respondent in Agriculture or other Government Department at par with other similarly situated employees as mentioned by Assistant Director, Agriculture and Secretary, Cane Development Council.”

5. Thereafter, the respondents/State filed an SLP against the order dated 23.11.2012, which was also dismissed by the Hon’ble Supreme Court vide order dated 02.09.2013. Subsequently, the respondents issued an order dated 04.09.2014, whereby the services of the petitioner were absorbed on the post of Assistant Grade-III in the Agriculture Department. Thereafter, the respondents released arrears vide order dated 07.11.2014 (Annexure P/1), and the arrears for the period from 20.03.2002 to 05.09.2014 were extended to the petitioner. Thereafter, Contempt Petition No. 79/2010 was disposed of by order dated 19.02.2015. The relevant part of the order dated 19.2.2015 passed in Contempt Petition No.79/2010 reads as under:

“According to the respondents they have complied with the impugned order. However, according to the petitioner, this order has not been complied with by the respondents. In as much as according to the petitioner, the petitioner was employed in the year 1989 and as such deserves to be regularized from that date.”

6. Thereafter, the respondents did not grant all consequential benefits to the petitioner by treating his services as regularized w.e.f. 26.10.1989. Hence, the present petition has been filed by the petitioner. The petitioner also filed an application for correction in the gradation list requesting that the date of appointment be amended as 26.10.1989 in place of 06.09.2014. Thereafter, the respondent issued a letter dated 26.08.2016 stating that due to the pendency of



the present petition, the representation of the petitioner would be considered after the final decision of the High Court. By order dated 24.02.2016, the respondent authority, in an arbitrary manner, treated the petitioner as a fresh appointee and did not count his previous services rendered since 1989 nor did the respondents consider his representation. Even otherwise, the petitioner had been posted/absorbed w.e.f. 19.03.2002 in the office of the Deputy Director of Agriculture, and the respondent authority had been granting him regular salary since 2002. It is further submitted that one similarly situated person Hameed Shekh (as per order dated 26.10.1989 (Annexure P/5), the name of Hameed Shekh is mentioned at Sr. No. 1 and the name of the petitioner is mentioned at Sr. No. 2.) had filed Writ Petition No. 6130/2015, which was decided on 12.01.2017. The relevant part of the said order reads as under:

“Law as regards monetary claim of an employee be in service or otherwise has been held to be providing a recurring cause of action in the plethora of judgments of Supreme Court as well as of this Court, therefore, the objection of learned counsel for respondents related to limitation cannot be countenanced. Accordingly, rejected. Consequently, the petition succeeds and is hereby allowed. Respondents are directed to extend the arrears of regular pay scale of LDC since 26.10.1989 to the petitioner and pay him the difference of salary till the date of retirement. Petitioner's pension shall also be revised taking into consideration the regular pay scale payable to the LDC w.e.f. 5/2/2010. As the petitioner has been denied the legitimate payment of salary tantamounting to illegal withholding of the amount due to the petitioner, therefore, interest at the rate of 6% shall be payable to the petitioner on the difference of arrears of salary.



7. Learned counsel for petitioner relied upon the order dated 26.9.2023 passed in the case of *Madanlal Gurjar v. State of M.P. and others (W.P. No.4200/2009)* which was allowed on 26.09.2023. In aforesaid writ petitions filed by similarly situated persons, the benefits have already been extended to them.

8. Per contra, learned Government Advocate for the respondents/State opposed the prayer made by learned counsel for the petitioner. It is further submitted that the services of the petitioner were absorbed by order dated 04.09.2014 in the Agriculture Department in the pay scale of Rs. 5200-20200 with grade pay of Rs. 1900/- from the date of absorption and the petitioner had accepted the terms and conditions of the absorption order dated 04.09.2014. It is further submitted that the benefits claimed by the petitioner cannot be granted as the same were not given in the earlier petition, and the said order has not been challenged by the petitioner in so far as it relates to arrears from 1988 and the interest part. It is further submitted that the petitioner was appointed in the answering respondent department by order dated 04.09.2014; therefore, his services will be counted from the date of order dated 4.9.2014.

9. Heard the learned counsel for the parties and perused the record.

10. Hameed Shekh, who is similarly situated to the petitioner [the name of Hameed Shekh is mentioned at Sr. No. 1 and the name of petitioner is mentioned at Sr. No. 2 as per order dated 26.10.1989 (Annexure P/5)], had filed Writ Petition No. 6130/2015, which was decided on 12.1.2017. The Court had directed the respondents to extend the arrears of regular pay scale of L.D.C since



26.10.1989 to the petitioner and further directed to pay him salary till date of retirement and to revise pension. Therefore, petitioner is also entitled to get the same benefit benefits. Even as per order dated 26.9.2023 passed by the Co-ordinate Bench of this Court in the case of Madanlal Gurjar v. State of M.P. (W.P. No.4200/2009) is yet not set aside by the Division Bench or the Supreme Court and the case of petitioner is covered by the aforesaid judgment. The relevant paras of the said order reads as under:

“In both, the petition as well as writ appeal, this Court had held that services rendered in the Sugarcane Development Council are liable to be counted, if an employee had worked or appointed in any other Government Department. The State Administrative Tribunal entertained the case of the petitioner treating him to be in service of State Government and no objection was raised by State.

9. So far as the case of the present petitioner is concerned, he was appointed in the Sugarcane Development Council as a Jeep Driver. The Tribunal in said Original Application held that the petitioner is not responsible for termination from services, because Sugarcane Development Council was unable to pay the salary / wages, however, he is entitled for merger into any other Government Department. The respondents - State Government accepted the order of the Tribunal and accommodated him in the Agriculture Department. He was regularized as Driver in the regular pay scale and hence, retired after attaining the superannuation age of 62 years. Therefore, he is entitled for his continuity of entire services rendered in Sugarcane Development Council.

10. As a result, Writ Petition No.4200 of 2009 is allowed. Let all consequential benefits be extended to the petitioner within a period of three months from the date of receipt of certified copy of this order.”

11. The services rendered by the present petitioner in the Sugarcane Development Council are liable to be counted for the purpose of qualifying the



service for calculation of pension on the basis of the judgment and order passed in the case of Madanlal Gurjer (supra) in W.P. No.4200/2009.

12. The entire reply submitted by respondents stating that as petitioner was newly appointed/fresh appointee by order dated 4.9.2014, without considering the aforesaid judgment passed in W.P. No.6130/2015 and W.P. No.4200/2009 and without considering that since 2002 they paid regular salary to petitioner. As the respondents have **absorbed services** of petitioner in compliance of order dated 23.11.2012 passed in W.A. No.67/2012. and accommodated him in agriculture department, he was regularized as Assistant Grade III in the regular pay scale and hence, retired after attaining the superannuation age of 62 years.

13. The impugned action of the respondents authority is contrary to law laid down by Hon'ble Supreme Court in the case of K. Madhavan v. Union of India & Ors reported in (1987) 4 SCC 566 and the same has been relied by this Hon'ble Court in W.P. No.189/2003 (K.M. Mishra & Ors v. State of M.P. and Ors) vide order dated 1.11.2007 (Annexure P-9) wherein the absorbed employees have been granted the benefit of salary from the date of their regularization and also been granted the benefit of seniority accordingly in new department by counting their past service in parent department, hence the petitioner ought to be granted the benefit of seniority by counting his past service in the present department.

14. The impugned action of the respondents authority whereby the respondents authority not counted the previous services and not granted the pension as per his regularization since 2.9.1988 is also contrary to law laid down



by Hon'ble Supreme Court in the case of Prem Singh v. State of U.P. And others 516 and the Hon'ble High Court in case of Chandrakanta v. State of M.P. 2007(2) MPLJ 339, Mahesh Chand Pandit v. State of M.P. 2013(4) MPLJ 353 and Mangala Mandloi v. State of M.P. and others 629 and therefore, in view of the settled law the petitioner is entitled for count his services since 2.9.1988.

15. Therefore, the petitioner is entitled for his continuity of entire services rendered in Sugarcane Development Council and petitioner is also entitled to get all consequential benefit w.e.f. 2.9.1988 (as mentioned in order dated 26.10.1989 Annexure P/5).

16. In view of the aforesaid, the present petition is allowed in the following manner:

- (i) order dated 4.9.2014 is hereby quashed;
- (ii) the respondents are directed to extend the arrears of regular pay scale of L.D.C. since 2.9.1988 to the petitioner and pay him the difference of salary till the date of retirement (treating him continue in service since 2.9.1988 till his retirement);
- (iii) the respondents are further directed to count the petitioner's service from 2.9.1988 till the date of his retirement as qualifying service for the purpose of calculating pensionary benefits;
- (iv) the respondents are directed to issue the revise PPO and GPO and extend all consequential benefits such as seniority,



increment, promotion, first and second time bound kramonnati to petitioner within a period of three months from the date of receipt of certified copy of this order;

(v) As the petitioner has been denied the legitimate payment of salary and other benefits tantamounting to illegal withholding of the amount, due to the petitioner, therefore, interest at the rate of 6% shall be payable to the petitioner on the difference of arrears of salary and other benefits.

17. All interlocutory applications, if pending, are disposed of.

(Anand Singh Bahrawat)
Judge

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