

HIGH COURT OF MADHYA PRADESH

WP.No.23212/2019

(Laxman Jatav Vs. The State of M.P. & Others)

Gwalior, Dated : 13.01.2021

Shri Tajuddin Khan, learned counsel for the petitioner.

Shri Vishal Tripathi, learned Panel Lawyer for the State.

In the wake of unprecedented and uncertain situation due to outbreak of the Novel Corona virus (COVID-19) and considering the advisories issued by the Government of India, this petition has been heard and decided through video conferencing to maintain social distancing. The parties are being represented by the respective counsel through video conferencing, following the norms of social distancing/ physical distancing in letter and spirit.

With the consent of the parties, the matter is finally heard through Video Conferencing.

The present petition has been filed under Article 226/227 of the Constitution of India seeking following reliefs:-

“1. The respondents may kindly be ordered and directed to grant the benefit of minimum pay scale and arrears from their respective dates of classification.

2. That, any other, order/direction as this Hon'ble Court may deem fit, may kindly be granted in favour of the petitioner.

3. That, the cost of this petition, may kindly be granted in favour of the petitioner in the interest of justice.”

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The present petition is being filed being aggrieved by not granting the benefit of minimum pay scale and arrears from the date of their classification which is 29.01.2007 in terms of the judgment passed by the Hon'ble Supreme Court in the case of **Ram Naresh Rawat Vs. Ashwini Ray & Ors., in 2017 (3) SCC 436.**

It is argued by the learned counsel for the petitioner that the petitioner was working on the said post of classified Labour since 01.01.1977, and was retired vide order dated 29.01.2019, and vide order dated 29.01.2007 the petitioner was classified by the respondents vide Annexure P-1 in the classification list. It is submitted that the petitioner is a retired employee. The classification order of the petitioner has not been cancelled by the respondents at any point of time. No benefits of policy dated 07.10.2016 introduced by the State Government has been extended to the petitioner. Categorically statement is being made that the petitioner has retired as classified employee but the benefits of classified employee has not been extended to him as has been held by the Hon'ble Supreme Court in the case of **Ram Naresh Rawat (Supra)**. He prayed for time bound directions to the respondents to consider and decide the representation and in terms of the judgment passed by the Hon'ble Supreme Court, the benefits of classified employee be extended to him. He submits that the controversy is settled in the case of **Ram Naresh Rawat Vs. Ashwini Ray, in 2017 (Vol 3) SCC 436** and the relevant

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extract of which is reproduced below for convenience and ready reference:-

“4..... The precise submission is that once they are conferred the status of permanent employee by the court and it is also categorically held that they are entitled to regular pay attached to the said post, not only the pay should be fixed in the regular payscale, the petitioner would also be entitled to the increments and other emoluments attached to the said post.

18. Insofar as petitioner before us are concerned they have been classified as 'permanent'. For this reason, we advert to the core issue, which would determine the fate of these cases, viz., whether these employees can be treated as 'regular' employees in view of the aforesaid classification? In other words, with their classification as 'permanent', do they stand regularized in service?

26. From the aforesaid, it follows that though a 'permanent employee' has right to receive pay in the grade pay-scale, at the same time, he would be getting only minimum of the said pay scale with no increments. It is only the regularization in service which would entail grant of increments etc. in the pay scale.

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27. In view of the aforesaid, we do not find any substance in the contentions raised by the petitioner in these contempt petitions. We are conscious of the fact that in some cases, on earlier occasions, the State Government while fixing the pay scale, granted increments as well. However, if some persons are given the benefit wrongly, that cannot form the basis of claiming the same relief. It is trite that right to equality under Article 14 is not in negative terms (See Indian Council of Agricultural Research & Anr. v. T.K. Suryanarayan & Ors.9).

28. These contempt petitions are, accordingly, dismissed.”

Per contra, learned Panel Lawyer for the State has no objection to the innocuous prayer made by the counsel for the petitioner and submits that if fresh representation is being filed by the petitioner, the respondents-authorities will consider and decide the same in accordance with law and if the classification order of the petitioner is found intact, the benefits of the classified employee will be extended to the petitioner within a short time.

Looking to the consideration the overall facts and circumstances and considering the statement made by the counsel for the petitioner, it is directed that the petitioner will submit fresh representation within a

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period of seven working days to the respondents No.3 and 4 and in turn, the respondents No. 3 and 4 are directed to dwell upon the same and decide the same by passing a speaking order within a period of three months from the date of receipt of certified copy of this order.

In case, it is found that the order of classification of the petitioner is not cancelled at any point of time, then the petitioner be paid the the benefits of the classified employee admissible to the post on which he has been classified as a permanent employee without any increment. Arrears, if any, be worked out, as a necessary consequence and be paid to the petitioner within a further period of two months.

It is made clear that in case during examination of the case of petitioner, it is found that the benefit of policy introduced by the State Government dated 07.10.2016 has been extended to the petitioner then the benefits in pursuance to classification order shall be extended only prior to the date on which the benefit of policy has been extended to him.

With the aforesaid observations, the petition stands **disposed of** .
No order as to the cost

E-copy of this order be provided to the petitioner and it is made clear that E-copy of this order shall be treated as certified copy for practical purposes in respect of this order.

(Vishal Mishra)
Judge