

THE HIGH COURT OF MADHYA PRADESH 1
WP No. 611 of 2021
Dwarika Prasad vs. State of MP

Gwalior, Dated :19/01/2021

Shri BP Singh, counsel for the petitioner.

Shri AK Nirankari, Panel Lawyer for the respondents/ State.

Heard through video conferencing.

This petition under Article 226 of the Constitution of India has been filed, seeking the following reliefs:-

"7(i) That, a direction may kindly be given to the respondents to pay the salary as per graded pay scale of the post of the Permanent Gangman to the petitioner from the date of his classification as held by the Hon'ble Supreme Court in the case of Ram Naresh Rawat.

(ii) Any other relief, which this Hon'ble Court deem fit and proper, may also be given to the petitioner."

2. Petitioner who happens to be initially engaged on daily wages Gangman in PWD, Division No.2, Gwalior w.e.f. 01-04-1983, submits that despite having been classified as a permanent employee vide Annexure P2, under the M.P. Industrial Employment (Standing Order) Act, 1961, no benefit of regular pay scale has been extended to him.

3. The law in regard to the benefits flowing from an order of classification is now settled in view of the decision of Apex Court in the case of **Ram Naresh Rawat Vs. Ashwini Ray** reported in **2017 (3) SCC 436**, relevant 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 pay scale, the petitioners would also be entitled to the

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increments and other emoluments attached to the said post.

18. Insofar as petitioners 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 graded pay- scale, at the same time, he would be getting only minimum of the said pay-scale with no increments. It is only the regularisation in service which would entail grant of increments etc. in the pay scale.

27. In view of the aforesaid, we do not find any substance in the contentions raised by the petitioners 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."

4. In view of the above, it is directed that in case the order of classification is intact, the petitioner shall be paid the minimum of the pay scale admissible to the post on which he has been classified as a permanent employee without any increment. If any arrears are worked out, as a necessary consequence the same be paid as expeditiously as possible preferably within a period of **three months'** from the date of receipt of copy of the order.

5. With the aforesaid direction, petition stands **disposed of**. No cost.

(G.S. Ahluwalia)
Judge