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IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ASHISH SHROTI

ON THE 11th OF SEPTEMBER, 2025WRIT PETITION No. 20523 of 2022*SMT RUCHI MATHUR**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Mr. Girija Shankar Sharma - Advocate for the petitioner.

Ms. Ekta Vyas - Panel Lawyer for the State.

Mr. Bhupendra Singh Dhakad - Advocate for respondent no.5.

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ORDER

The petitioner has filed this writ petition praying for a direction to the respondents to make payment of salary from May' 2019 to August' 2022 amounting to Rs.2,92,500/-.

2. The facts, as gathered, from the record of the case are that the petitioner claims to have been appointed on contract basis as Assistant in respondent - Municipal Council. The petitioner claims that she has discharged work for the period from May' 2019 to August' 2022 but has not been paid salary for this period.

3. The respondent - Municipal Council has filed reply, wherein in paragraph - 2, it has been stated that the petitioner has been paid salary for the work she has done upto September' 2021. It is specifically stated that the petitioner has not worked in the Municipal Council thereafter.



4. In response, learned counsel for the petitioner refers to the copy of the order-sheets filed along with the rejoinder as Annexure P/4 and submitted that the petitioner has worked upto October' 2022, as is evident from page no.13 & 14 of the rejoinder. He thus, submits that since his working is not disputed, the petitioner is entitled to get salary for the work she has done.

5. Considered the arguments and perused the record.

6. As has been stated by the respondents in their reply that salary upto September' 2021 has been paid to the petitioner. Whether she has worked thereafter or not is a serious disputed question of fact, which cannot be adjudicated in the writ jurisdiction. So far as the copy of the order-sheets filed by the petitioner along with the rejoinder is concerned, the same cannot be relied upon for deciding the aforesaid issue. The petitioner has not clarified the mode through which she has obtained these order-sheets. During the course of arguments, learned counsel for the petitioner submitted that, since the petitioner is working in the Municipal council, she get the photocopy of the order-sheets from official records. On the other hand, as per the submissions made by learned counsel for respondent Municipal Council, it is not clear from these order-sheets as to who has signed the same and this does not even bear seal of council.

7. This submission of petitioner's counsel is unacceptable inasmuch as merely because the petitioner is working in the office of respondent Municipal Council, she is not entitled to obtain copy of official records. There is procedure for obtaining copy of records without following which



an employee is not supposed to have the same. She could have applied under provisions of Right to Information Act, 2005 for obtaining copy of these records. If this is allowed, such practice would be a serious threat to the confidentiality of any office. Thus, the copy of official records obtained by petitioner without lawful means is not acceptable and cannot be relied upon for deciding her claim in this petition.

8. Moreso, it is a settled legal proposition that internal noting of the department cannot be relied upon, unless it ripens into an order. This has been so held by the Apex Court in the case of *Delhi Development Authority Vs. Hello Home Education Society*, reported in (2024)3 SCC 148. The Apex Court held as under:

"19.7. The issue relating to internal notings as to whether it would confer any right or not has been adequately dealt with and settled by series of judgments of this Court. It is well settled that until and unless the decision taken on file is converted into a final order to be communicated and duly served on the party concerned, no right accrues to the said party. Mere notings and in-principle approvals do not confer a vested right. Relevant extracts from judgments of this Court in this regard are being reproduced hereunder.

(a) *Bachhittar Singh* [*Bachhittar Singh v. State of Punjab*, 1962 SCC OnLine SC 11 : AIR 1963 SC 395] : (AIR p. 398, paras 9-10)

"9. The question, therefore, is whether he did in fact make such an order. *Merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government two things are necessary. The order has to be expressed in the name of the Governor as required by clause (1) of*



Article 166 and then it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such an order is drawn up the State Government cannot, in our opinion, be regarded as bound by what was stated in the file.....

10. ... Thus it is of the essence that the order has to be communicated to the person who would be affected by that order before the State and that person can be bound by that order. For, until the order is communicated to the person affected by it, it would be open to the Council of Ministers to consider the matter over and over again and, therefore, till its communication the order cannot be regarded as anything more than provisional in character.”

(emphasis supplied)

(b) *Sethi Auto Service Station* [*Sethi Auto Service Station v. DDA*, (2009) 1 SCC 180] (SCC pp. 185-87, paras 14 & 22)

“14. It is trite to state that notings in a departmental file do not have the sanction of law to be an effective order. A noting by an officer is an expression of his viewpoint on the subject. It is no more than an opinion by an officer for internal use and consideration of the other officials of the department and for the benefit of the final decision-making authority. Needless to add that internal notings are not meant for outside exposure. Notings in the file culminate into an executable order, affecting the rights of the parties, only when it reaches the final decision-making authority in the department, gets his approval and the final order is [Ed. : The word between two asterisks has been



emphasised in original as well.] *communicated* [Ed. : The word between two asterisks has been emphasised in original as well.] *to the person concerned*.

22. *From the afore-extracted notings of the Commissioner and the order of the Vice-Chairman, it is manifest that although there were several notings which recommended consideration of the appellants' case for relocation but finally no official communication was addressed to or received by the appellants accepting their claim.* After the recommendation of the Technical Committee, the entire matter was kept pending; in the meanwhile a new policy was formulated and the matter was considered afresh later in the year 2004, when the proposal was rejected by the Vice-Chairman, the final decision-making authority in the hierarchy. It is, thus, plain that though the proposals had the recommendations of State Level Coordinator (Oil Industry) and the Technical Committee but these did not ultimately fructify into an order or decision of the DDA, conferring any legal rights upon the appellants. *Mere favourable recommendations at some level of the decision-making process, in our view, are of no consequence and shall not bind DDA. We are, therefore, in complete agreement with the High Court [Sethi Auto Service Station v. DDA, 2006 SCC OnLine Del 162] that the notings in the file did not confer any right upon the appellants, as long as they remained as such.* We do not find any infirmity in the approach adopted by the learned Single Judge and affirmed by the Division Bench [*Sethi Auto Service Station v. DDA, 2006 SCC OnLine Del 162*] , warranting interference.”

(emphasis supplied)



(c) *Mahadeo* [*Mahadeo v. Sovan Devi*, (2023) 10 SCC 807] ,
(SCC pp. 813-14, para 15)

“15. It is well settled that inter-departmental communications are in the process of consideration for appropriate decision and cannot be relied upon as a basis to claim any right. This Court examined the said question in a judgment reported as Omkar Sinha v. Sahadat Khan [Omkar Sinha v. Sahadat Khan, (2022) 12 SCC 228 : (2023) 2 SCC (L&S) 391] . Reliance was placed on Bachhittar Singh v. State of Punjab [Bachhittar Singh v. State of Punjab, 1962 SCC OnLine SC 11 : AIR 1963 SC 395] to hold that merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government, two things are necessary. First, the order has to be expressed in the name of the Governor as required by clause (1) of Article 166 and second, it has to be communicated. As already indicated, no formal order modifying the decision of the Revenue Secretary was ever made. Until such an order is drawn up, the State Government cannot, in our opinion, be regarded as bound by what was stated in the file.”

(emphasis supplied)"

9. In view of aforesaid legal position, no benefit can be given to the petitioner of the orders sheets filed by her alongwith rejoinder. Apart from the order sheets, there is no other material available on record to show that the petitioner had worked after September' 2021.

10. Considering the aforesaid, the factual dispute being raised by the



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petitioner in the instant writ petition with regard to her working in the respondent - Municipal Council is not adjudicable in the present writ petition. No indulgence, therefore, not be shown in her favour. Accordingly, the petition is disposed of giving liberty to the petitioner to get her right adjudicated in the forum, where the disputed facts can be decided.

11. With the aforesaid, this petition is **disposed of**.

(ASHISH SHROTI)
JUDGE

bj/-