

**HIGH COURT OF MADHYA PRADESH BENCH AT  
GWALIOR**

**BEFORE**

**HON'BLE SHRI JUSTICE ANAND PATHAK**

**&**

**HON'BLE SHRI JUSTICE HIRDESH**

**WRIT APPEAL NO.24/2025**

**M.L. GOYAL**

**VS.**

**STATE OF M.P. AND OTHERS**

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**Appearances:-**

*Shri D.P. Singh – Advocate for the appellant.*

*Shri Ankur Modi – Additional Advocate General for the respondents-State.*

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**JUDGMENT**

**(Delivered on 16<sup>th</sup> day of June, 2025)**

1. The instant Writ Appeal is filed under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyayapeeth Ko Appeal) being aggrieved by the order dated 14<sup>th</sup> November, 2024 passed in Writ Petition No.23896/2018 by the learned Single Judge whereby writ petition preferred by the petitioner (hereinafter referred as “appellant”) got dismissed.
2. Precisely stated facts of the case are that appellant was working at the relevant point of time as “Assistant Professor Treasury” at

Shivpuri and remained on unauthorized absence for the period from 01/7/2010 to 09/03/2011, therefore, order dated 17/08/2012 was passed by the Treasury Officer, District-Shivpuri and the period of absence of appellant from 01/07/2010 to 09/03/2011 was declared as the period of “Unauthorized Absence (अन्य दिवस)”.

3. Appellant challenged the said order by way of Writ Petition No.23896/2018, but the same was dismissed vide order dated 14<sup>th</sup> November, 2024 on the ground that since unauthorized absence has not been treated as *dies non* but only treated as “no work no pay” therefore, respondents are not required to conduct a full fledged departmental inquiry. Therefore, appellant is before this Court in writ appeal.

4. It is the submission of learned counsel for the appellant that although respondents in their return has mentioned this fact that this period of 252 days (from 01/7/2010 to 09/03/2011) has not been treated as *dies-non*, but he placed an order dated 14/08/2013 passed by the State Government whereby this period has been treated as *dies non*. Therefore, it would be treated as “break in service” and it would adversely affect the salary, pension and other emoluments of the appellant.

5. Learned counsel for the respondents/ State opposed the prayer, however, could not dispute passing of the order dated 14/08/2013 as referred above.

6. Heard the learned counsel for the parties and perused the documents appended thereto.

7. In the case in hand, appellant was aggrieved by the order by which his absence for 252 days was treated as “unauthorized absence” and declared as “no work no pay (अन्य दिवस)”. Although, if said period would had been taken care under the M.P. Civil Services (Leave) Rules, 1977 specially Rule 24 of the same, then situation would had been different. However, earlier vide order dated 17/08/2012, Treasury Officer, Shivpuri declared the unauthorized absence of appellant as “no work no pay”, but later on, vide order dated 14/08/2013 passed by the State Government, the said period has been treated as *dies non*. This order is contrary to the return filed by the respondents in the year 2018, wherein it has been specifically mentioned that this period is not treated as *dies non*. However, order dated 14/08/2013 was not placed by the appellant before the learned Writ Court nor bothered to bring this fact and documents on record. Therefore, now complexion of the case turns different. If it is a case of *dies non* then it will not be counted for leave, salary, pension and other emoluments in the light of the judgment of the Division Bench of this Court in the case of **Battilal Vs. Union of India and Others, 2005 (3) MPHT 32** and this would be a major punishment and then as per the judgment rendered by the learned Single Judge of this Court in the case of **Mahesh Kumar Shrivastava Vs. State of M.P.**

**and Others, 2007(3) MPLJ 525**, departmental inquiry is required to be held by the respondents/ authorities.

**8.** In the conspectus of the facts and circumstances of the case, it is apposite that matter be remanded back before the learned Writ Court so that appellant can place the order dated 14/08/2013 passed by the State Government and amend the pleadings before the Writ Court, if advised so. Thereafter, respondents may revert the submissions if advised so, and matter can be decided finally.

**9.** One fact deserves consideration is that appellant got voluntarily retirement w.e.f. 31/12/2011 and now he is a retired government employee.

**10.** *Resultantly*, instant writ appeal is partly allowed. Order dated 14<sup>th</sup> November, 2024 passed in Writ Petition No.23896/2018 by the Single Judge is hereby set aside. Matter is remanded back before the Writ Court with the observations as referred above.

The Writ Appeal is *partly allowed*.

**(ANAND PATHAK)**  
**JUDGE**

**(HIRDESH)**  
**JUDGE**