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WP-3950-2021

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 19th OF SEPTEMBER, 2024WRIT PETITION No. 3950 of 2021

*KAILASHCHANDRA SINDAL S/O SHRI RAMSINGH SINDAL
(DECEASED) THROUGH LRS. HIS WIFE SMT. RESHAM BAI SIND*

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Akash Sharma - Advocate for the petitioner.

Shri Vishal Singh Panwar - G.A./P.L. for respondents/State

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ORDER

1] Heard.

2] This writ petition has been filed by the petitioner under Article 226 of the Constitution of India, seeking the following reliefs:-

- "1. That, the Hon'ble Court be pleased to allow the petition.
2. To quash the impugned order dated 31.12.2020 passed by the respondent No. 5.
3. To direct the respondents to extent the benefit of pension to the petitioner immediately.
4. To direct the respondent to give all the consequential benefit to the petitioner and also release all the retiral benefit of the petitioner.
5. To, direct the respondent to consider the petitioner is a mechanical Grade III.
6. Any other relief this Hon'ble thinks fit so."

3] The petitioner, Kailashchandra Sindal through his legal heir wife Smt. Reshambai Sindal, who was posted as Pump Operator (Class - IV employee), is aggrieved by the recovery order dated 31.12.2020, which was issued after his retirement.



4] Counsel for the petitioner has submitted that the case of the petitioner is squarely covered by the decision rendered by the Supreme Court in the case of **State of Punjab Vs. Rafique Masih (White Washer)** reported as **(2015) 4 SCC 334**.

5] Counsel for the State has opposed the prayer.

6] On due consideration of submissions and taking note of the fact that the recovery is sought to be effected from the present petitioner after his retirement, the decision rendered by the Supreme Court in the case of **Rafique Masih (supra)** shall be applicable *mutatis mutandis*.

7] Accordingly, the petition stands allowed and the impugned order dated 31.12.2020 is hereby quashed and the respondents are directed to extend the retiral benefits to the legal heir of the petitioner within a period of three months and the amount of recovery, which has already been effected from the petitioner be also released to the petitioner within a further period of three months along with interest at applicable bank rates.

8] With the aforesaid, the petition stands **allowed** and **disposed of**.

(SUBODH ABHYANKAR)
JUDGE