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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

ON THE 6th OF DECEMBER, 2023

WRIT PETITION No. 18751 of 2022

BETWEEN:-

**ASHOK KUMAR PADEYAR S/O SHRI JAGANNATHJI
PADEYAR, AGED ABOUT 49 YEARS, OCCUPATION:
SERVICE DANGI COLONY BHANPURA DISTRICT
MANDSAUR (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI PRASANNA R. BHATNAGAR - ADVOCATE)

AND

- 1. PUBLIC HEALTH AND FAMILY WELFARE
DEPARTMENT THROUGH PRINCIPAL SECRETARY
MANTRALAYA VALLABH BHAWAN BHOPAL
(MADHYA PRADESH)**
- 2. COMMISSIONER HEALTH DEPARTMENT HEALTH
SERVICES, SATPUDA BHAWAN, BHOPAL
(MADHYA PRADESH)**
- 3. JOINT DIRECTOR HEALTH DEPARTMENT
HEALTH SERVICES, UJJAIN DIVISION UJJAIN
(MADHYA PRADESH)**
- 4. CHIEF MEDICAL AND HEALTH OFFICER
MANDSAUR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI KOUSTUBH PATHAK - G.A.)

.....
*This petition coming on for admission this day, the court passed the
following:*

ORDER

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

"7.1 The impugned order Annexure P/19, dated 09.02.2022, issued by Respondent No. 4 may kindly be quashed.

7.2. The respondents may kindly be directed to give the benefit of regularization and regular pay scale to the petitioner from the date of initial appointment and the respondents further be directed to pay the arrears of salary, benefit of pay scales and other consequential benefits to the petitioner with interest at the rate of 12 % p.a. immediately.

7.3 That, the respondents may kindly be directed to modify the order Annexure P/11 dated 07.04.2016, to the extent regarding grant of benefit of regularization w.e.f. the date of initial appointment.

7.4 Any other relief(s), which this Hon'ble Court may deem fit, may kindly be granted in favour of the petitioner."

2. The petitioner is aggrieved by the order dated 09.02.2022 passed by the respondent No.4 Chief Medical & Health Officer, Mandsaur whereby petitioner's representation for regularization of his services after completion of 10 years of service from the date of his initial appointment has been partly allowed by referring to the decisions rendered by the Supreme Court in the case of **State of Karnataka Vs. Uma Devi** reported as **(2006) 4 SCC 1** as also another decision in the case of **State of Himachal Pradesh Vs. Suresh Kumar Verma** passed in **SLP No.3492 of 1996** after a Scrutiny Committee was constituted as per Circular dated 16.05.2007, and the claim of the petitioner was allowed partly and the petitioner has been given the benefit of regularization with effect from 07.04.2016 instead of 2004.

3. Counsel for the petitioner has submitted that the case of the petitioner is squarely covered by an order passed by the Supreme Court in **Civil Appeal No.12080 of 2016 (Jivanlal Vs. Pravin Krishna, Principal Secretary and Ors.) dated 14.12.2016** wherein the Supreme Court has held that the appellants are entitled to regularization with effect from the date of completion of 10 years of service as the other identically placed persons have already been regularized by the respondents. Thus, it is submitted that the same treatment

may also be given to the petitioner and there was no reason for the respondents to treat the petitioner differently, especially when his case is also identical to that of those persons, who had approached the Supreme Court as the appellants before the Supreme Court were the employees of Ratlam District, whereas the petitioner is an employee of Mandsaur District working under and governed by the same Department and Policy.

4. Counsel for the State, on the other hand, has opposed the prayer and it is submitted that no case for interference is made out as the authorities have acted in accordance with the decisions rendered by the Supreme Court in the case of **Uma Devi (supra)**. However, on a query made by this Court, counsel has admitted that in the reply filed by the State there is no reference of the decision rendered by the Supreme Court in the case of **Jivanlal (supra)**.

5. On due consideration of submissions, perusal of the documents filed on record, including the decision rendered by the Supreme Court in the case of **Jivanlal (supra)**, it is found that the Supreme Court has made the following observations while disposing of the aforesaid case:-

"1. Leave granted.

2. The appellants have prayed for regularization of their services with effect from the date they completed 10 years of service. Main reliance is placed on the orders passed by the respondents in the case of similarly situated persons.

3. The learned counsel for the respondents has vehemently contended that all the regularization orders passed in the case of those pointed out by the appellants are illegal since the State, in principle, had decided to discontinue the appointment to the post of Sweepers by order dated 10.12.1997. However, the fact remains that after the said order also, many similarly situated persons have been granted regularization with effect from the date of completion of 10 years of service.

4. In that view of the matter, we do not find any justification in discriminating the appellants herein. The policy had been violated in many cases. There cannot be any pick and choose policy; it would certainly lead to corruption. Hence, the appeals are allowed with a direction to the

respondents to grant similar treatment to the appellants herein as well and grant regularization to them with effect from the date of completion of 10 years of service.

5. The needful shall be done within two months. Consequential benefits, if any, shall be disbursed within another one month.

6. It is made clear that in case the disbursement is not done within the period mentioned above, the appellants shall be entitled to interest at the rate of 12% and the official(s) responsible for the delay will be personally liable for the same.

No costs."

6. A perusal of the aforesaid order clearly reveals that the petitioner's case cannot be distinguished from the case of **Jivanlal** (supra) as in the present petition also the same issue of regularization of the petitioner after completing the 10 years of service from the date of his initial appointment is involved and in such circumstances, the impugned order dated 09.02.2022 is hereby quashed so far as it relates to non-grant of benefits for the period from 2004 to 07.04.2016 and thus, the respondents are directed to grant the benefit of regularization to the petitioner from relevant date of 2004 upto 07.04.2016. The consequential benefits accrued to the petitioner be also extended to him. Let the aforesaid exercise be completed within a period of three months from the date of receipt of certified copy of this order.

7. With the aforesaid, the writ petition stands **disposed of**.

(SUBODH ABHYANKAR)
JUDGE