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WA-2182-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

&

HON'BLE SHRI JUSTICE ALOK AWASTHI

ON THE 15th OF JANUARY, 2026

WRIT APPEAL No. 2182 of 2023

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

SANTOSH AND OTHERS

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Appearance:

Shri Sudeep Bhargava - Dy.A.G for the appellant/State.

Shri Ravindra Singh Chhabra, Senior Advocate with Shri Vikas

Jaiswal and Ms.Praneesha Nayyar - Advocate for the respondents.
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ORDER

Per. Justice Vijay Kumar Shukla

The present appeal is being filed under Section 2(1) of Madhya Pradesh Uchha Nyayalaya (Khand Nyaypith ko Appeal) Adhiniyam 2005 being aggrieved by the order dated 3/10/2023 passed by the Writ Court in W.P No.2634/2020, whereby the writ petition preferred by the present respondents was allowed and the appellants were directed to grant the benefit of 6th pay commission w.e.f 1.1.2006 to the employees of Janpad Panchayat and Zila Panchayat.

2. Facts of the case draped in brevity are that the respondents were appointed in the District Rural Development Authority and that thereafter the respondents were absorbed in the Jila Panchayat Khargone. The respondents



had filed a Writ Petition no.186/2015 for grant of benefits of 6th Pay Commission before this Court, in which the Court vide order dated 26.10.2016 had directed the appellants to consider the case of the respondents and decide the representation filed by the respondents. In compliance to the said order, the representation filed by the respondents was considered and after consideration the same was rejected. Being aggrieved by the rejection of representation by the appellants, the respondents had filed the said writ petition bearing W.P. No. 2634/2020 before this Court which was allowed by the Writ Court vide dated 03.10.2023.

3. The petitioners were appointed to the District Rural Development Authority and thereafter their services were absorbed into the Jila Panchayat Khargone. Respondent No.1 was promoted to Accountant and Respondent No.2 was promoted to the post of Assistant Grade II. They approached before this Court by way of Writ Petition No.2494/2001 for the grant of benefit of the 5th Pay Commission. Vide order dated 20.06.2001, the Writ Petition was allowed with a direction to the appellants to grant the benefit. Vide order dated 21.07.2010, the Panchayat and Rural Development Department directed all Chief Executive Officers of Jila Panchayat to grant the benefit of the 6th Pay Commission to the employees of DRDA as well as employees of Panchayat. Vide order dated 10.05.2018, the benefit of 7% Pay Commission, dearness allowance was given to the employees working in the Jila Panchayat and Janpad Panchayat. In compliance of the aforesaid order, the pay fixation of the respondents was done on 16.08.2018. The respondents submitted a representation to the appellants for extending the benefit of the



6th Pay Commission w.e.f. 01.01.2006 i.e at par with the State Government employees, who had already been given the said benefit from 01.01.2006. Respondents approached before this Court by way of Writ Petition No.186/2015 for grant of 6th Pay Commission which was disposed of vide order dated 26.10.2016 with direction to consider the representation. Vide annexure P/1 the appellants rejected the representation on the ground that the State Government vide order dated 08.08.2013 directed to give the 6th Pay Commission 01.04.2013 to the employees of Jila Panchayat and Janpad Panchayat and Jila Panchayat is not having any additional source of income, hence claim of benefit from 01.01.2006 cannot be allowed.

5. Initially, the appellants filed a very brief reply by submitting that vide order dated 08.09.2008, the State Government directed all the Chief Executive Officers of Jila Panchayat and Janpad Panchayat to grant the benefit of 5th Pay Commission to the employees of Jila Panchayat and Janpad Panchayat from 01.01.2006 and thereafter vide order dated 08.08.2013 further directed to grant the 6th Pay Commission w.e.f. 01.04.2013 with the rider that the State Government would not provide any separate funds in respect of such grant. The services of the respondents are governed by Madhya Pradesh Panchayat Services (Recruitment and General Condition of Service) Rules, 1999 (henceforth "Rules, 1999"), they cannot claim their eligibility for 6th Pay Commission like their counter part in State Government. Petitioners filed a rejoinder that Jila Panchayat Khargone has decided to give the 6th Pay Commission to its employees like State Government employees and the said resolution has been implemented.



6. In the writ petition, this court vide order dated 20.04.2023, had directed the State Government to seek instruction as to what is the position about the implementation of the 6th Pay Commission in other Gram Panchayats, Janpad Panchayats and Jila Panchayats of M.P. to examine disparity in the date of grant of benefit of 6th Pay Commission amongst the employees of Panchayats. The Additional Chief Secretary, Panchayat and Rural Development Department, Bhopal filed an affidavit to the effect that the Finance Department had granted approval for grant of benefit of revision of pay by accepting the recommendation of 5th and 6th Pay Commission w.e.f. 06.07.2013. The Deputy Advocate General was directed to seek instructions that under which provision of law, the State Government gets authority to decide the date of implementation of 6th Pay Commission for the Panchayat employees. Vide notification dated 28.02.2009 whereby M.P. Revision Rules, 2009 were notified by the Finance Department, Government of Madhya Pradesh w.e.f. 01.01.2006 under the power conferred under Article 309 of the Constitution of India hence under which authority, Government decided that date of implementation for panchayat's employees.

7. The learned single Judge framed two issues:-

A) The core issue in the Writ Petition which required consideration by this Court was “whether employees of Gram Panchayat, Janpad Panchayat and Jila Panchayat are to be treated at par with State Government employees in respect of date of implementation of recommendation of the 6th pay commission?”

B) Another issue which was to be examined was that “under which



authority the State Government is competent to fix the date of implementation for the members of Panchayat services ?”

8. Chapter 9 of the Constitution of India mandates the establishment of the Gram Panchayat, Janpad Panchayat and Jila Panchayat in each State. As per definition Article 243 (d) “Panchayat” means an institution by whatever name called of self-government constituted under Article 243B, for the rural areas. Art. 243B says that "there shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part". Art. 243C provides the composition of Panchayat for which "the legislature of a State may, by law, make provisions with respect to the composition of Panchayats". Art. 243 C (2) says that "all the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area". As per Art. 243E, "every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer". Art. 243G defines the power, authority and responsibility of Panchayat and says that "subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government". Article 243 I provides that the Legislature of a State may, by law, authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and further provides for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State. Art. 243(J) provides an



audit of accounts of Panchayat that too by making the law by legislature.

Art. 243(K) deals with the election.

9. It is clear from above that each and every Panchayat is an independent self Government, enabled to take its own decision in respect of the law made by the legislature of the State. Article 309 of the Constitution of India says that subject to the provisions of this Constitution, the act of the appropriate Legislature may regulate the recruitment, and conditions of service of persons appointed, to public services and posts in connection with the affairs of the Union or of any State, therefore the State Legislature may regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affair of State meaning thereby the State Government is not competent to decide the recruitment conditions of the employees of Panchayat. The Government of M.P. in exercise of power conferred under Article 309 of the Constitution of India framed the Madhya Pradesh Vetan Punrikshan Niyam, 2009 and made it applicable w.e.f. 01.01.2006 for its government employee but in an order dated 08.08.2013, the Panchayat and Rural Department of State Government has not disclosed any power by which the date of grant of benefit of 6th Pay Commission has been fixed from 01.04.2013 after approval of the Finance Department.

10. Learned counsel for the appellant argued that the State Government had taken a consensus decision on account of financial condition to grant the benefit of 6th pay to the employees of the Janpad Panchayat and Gram Panchayat w.e.f 2013 and not from 1/1/2006. He



argued that the said decision was taken by the State Government by order dated 6/8/2013 and the same was not challenged and, therefore, the learned Single Judge erred while allowing the writ petition.

11. Per contra, counsel for the respondents submitted that the learned Single Judge after taking into consideration the submission of both the parties held that the decision of the appellant to grant the benefit of 6th pay commission w.e.f 1/4/2013 instead of 1/1/2006 was arbitrary, discriminatory and unreasonable. It was further argued that the respondents are the employees of the Panchayat and Panchayat is an autonomous body and once the employer had taken a decision to grant the benefit of the 6th pay commission at par with the State Government employees then the State Government could not have taken an arbitrary decision to not to grant the same from the same date from which the State Government employees were granted.

12. We have heard learned counsel for the parties and find that the learned Single Judge after framing aforesaid two issues and taking into consideration the constitution of provision as well as various judgments held that the employees of the Jila Panchayat and Gram Panchayat could not have been discriminated. Further we find that no such submission was made before the learned Single Judge regarding the decision of the State Government dated 6/8/2013. Even otherwise, the same cannot be a ground for denying the benefits to the writ petitioners and on the said ground, the order of the learned Single Judge cannot be found to be faltered. It is relevant to mention here that it is not the case of the State Government where the



State Government had not approved the decision of the Panchayats to grant the benefit of 6th pay commission to its employees. They approved the said decision but only directed to implement it from a subsequent date after the date from which the State Government employees were granted. No reasonable ground has been ascribed in the reply for not granting the said benefit from the same date. The said decision is arbitrary and discriminatory and also violative of the doctrine of "Equal Pay for Equal Work". In the case of *Surinder Singh and Anr. vs. Engineer-in-chief CPWD and Ors.* reported in *(1986) 1 SCC 639*, the Court held that the daily wage worker of CPWD are entitled to the wages equal to regular and permanent employees as they are discharging identical duties. In the case of *Randhir Singh vs. Union of India and Ors.* reported in *(1982) SCC 618*, the Court held that the grant of lower scale pay to the Delhi Police Force then those in Delhi administration is unreasonable classification and not in consonance with the principle of "Equal Pay for Equal Work". The similar view was reiterated by the Apex Court in the case of *State of Punjab & Ors. vs. Jagjit Singh and Ors.* reported in *(2017) 1 SCC 148* that the principle of "Equal Pay for Equal Work" applies to the temporary employees and they cannot be discriminated in respect of the entitlement to minimum regular pay as they are discharging the same duties as discharged by regular employees against sanctioned post.

13. Thus, in view of the aforesaid, the decision of the appellant to grant the said pay from the different date from which the State Government employees have been granted is arbitrary and violative of Article 14 of the Constitution and principle of "Equal Pay for Equal Work" and, therefore, we



do not find any error in the order passed by the learned Single Judge.

14. Accordingly, present Writ Appeal stands dismissed.

No order as to cost.

(VIJAY KUMAR SHUKLA)
JUDGE

(ALOK AWASTHI)
JUDGE

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