



NEUTRAL CITATION NO. 2025:MPHC-IND:79.

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

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 25th OF MARCH, 2025

WRIT PETITION No. 10007 of 2024

S.K. JOSHI

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Anand Agrawal - advocate for the petitioner.

Shri Kushagra Jain – G.A. appearing on behalf of Advocate General.

ORDER

1] This writ petition has been filed by the petitioner under Article 226 of the Constitution of India against issuance of charge sheet dated 27/02/2024, whereby a departmental inquiry has been initiated against the petitioner on the allegations that he did not appear before the High Court and did not file the return/reply in WP No.28001/2019 which was disposed of ex-parte against the State on 07/01/2020, directing that the family pension be given to the writ petitioner.

2] In brief, the facts of the case are that one Smt. Mukti Mishra filed the aforesaid writ petition No.28001/2019, being wife of late Shri Arun Mishra, claiming family pension. In the aforesaid petition, this Court



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passed the final order on 07/01/2020 disposing of the petition with a direction to the petitioner to file a fresh representation along with the judgment relied upon by her, and the respondents were directed to decide the same in accordance with law within a period of three months. Subsequently, the representation filed by the said writ petitioner Smt. Mukti Mishra was allowed and it was sent for confirmation to the Commissioner, Commercial Tax Department, who also wrote a letter dated 25/11/2020 to the State Government, informing that the appropriate orders be passed to ensure that the family pension is given to the petitioner Smt. Mukti Mishra.

3] After attaining the age of superannuation, the petitioner also retired on 31/12/2021. However, petitioner was issued the charge sheet on 27/02/2024 alleging the dereliction of his duties, that an *ex-parte* order was passed against the State directing the respondents to pay the family pension.

4] Counsel for the petitioner has drawn the attention of this Court to the order dated 07/01/2020 passed by this Court in WP No.28001/2019, to submit that it was not an *ex-parte* order, and in-fact it was an order whereby the petition was simply disposed of with a direction to the petitioner to submit a representation which was to be decided by the respondents in accordance with law. It is submitted that there was no occasion for the respondents to frame a charge that it was because of the petitioner's dereliction of duties, that the aforesaid order was passed by the High Court. It is also submitted that since an order has already been passed by the State authorities that the said petitioner Smt. Mukti Mishra is entitle to family pension, and that has also not been challenged by the



State before any other authority, it cannot be said that any loss has occasioned to the State. Thus, it is submitted that even on a bare perusal of the charges, the same cannot be countenanced in the eyes of law. Hence, it is submitted that the petition be allowed.

5] Counsel for the respondents, on the other hand has opposed the prayer. A reply has also been filed by the respondents and it is submitted that the petition itself is not maintainable as the petitioner will have ample opportunities to contest the matter on merits after leading the evidence. Thus, it is submitted that no case for interference is made out.

6] Heard. Having considered the rival submissions and on perusal of the documents filed on record, this Court finds that the controversy revolves around the order dated 07/01/2020, passed by this Court in WP No.28001/2019. Thus, it would be apt to refer to the same at this juncture, the relevant excerpts of the same are as under:-

“By the instant petition the petitioner is challenging the order dated 14.10.2011 (Annexure P-1) whereby her claim for grant of family pension has been rejected by the authorities stating that the deceased employee has not completed 10 years of qualifying service and, accordingly, the family pension cannot be granted.

The learned counsel for the petitioner submits that he has filed certain judgments in which it is observed that for grant of family pension even a day's service is sufficient.

The learned Govt. Advocate submits that if this petition is disposed of by directing the authorities to consider the claim of the petitioner afresh taking note of the judgments passed by the High Court on earlier occasion, he would have no objection.

Considering the above, the order dated 14.10.2011 is set aside and the matter is remitted back to the respondent no.2 for considering the claim of the petitioner for grant of family pension. The petitioner is directed to submit a fresh representation alongwith the judgments of this Court on which she is relying upon before the authorities. The authorities, while considering the claim of the petitioner, shall take note of the orders passed by this Court in respect of qualifying service and pass fresh orders regarding grant of family



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pension to the petitioner. The aforesaid exercise be completed within a period of three months from the date of submitting the fresh representation along with the certified copy of this order by the petitioner. With the aforesaid direction, the petition stands disposed of.”

(Emphasis supplied)

7] It is also found that the matter came up for hearing before this Court for the first time on 07/01/2020 itself, and on a bare perusal of the aforesaid order it would reveal that this Court has not directed the State to grant family pension to the petitioner Smt. Mukti Mishra, and what was directed was to decide the petitioner's representation also taking note of the judgments passed by this court and relied upon by the petitioner Smt. Mishra. Admittedly, the representation has been allowed by the competent authority on 03/09/2020, and it has been sent to the Commissioner, Commercial Tax Department, who in turn has sent this communication to the State Government on 25/11/2020.

8] In such facts and circumstances of the case, this Court is totally at a loss to understand as to how and in what circumstances, a departmental inquiry can be initiated against the petitioner who was neither present in the Court, nor was responsible in any manner for the outcome of the said petition. It appears that the authority which has framed the charges has either misread the order passed by this Court or misinterpreted it, and has proceeded to initiate departmental inquiry against the petitioner, in which following charges have been framed:-

“आरोप क्रमांक-1 आप पर आरोपित है कि खण्डवा संभाग में आपकी पदस्थापना के दौरान वाहन चालक स्व. श्री अरूण कुमार मिश्रा की पत्नी श्रीमती मुक्ति मिश्रा द्वारा परिवार पेंशन प्राप्त करने हेतु माननीय उच्च न्यायालय खंडपीठ, जबलपुर में डब्ल्यू.पी. क्रमांक 28001/2019 दायर की गई, जिसमें याचिकाकर्ता द्वारा संभागीय उपायुक्त, वाणिज्यिक कर, खण्डवा को भी प्रतिवादी बनाया गया था। आपके द्वारा याचिका के संबंध में मुख्यालय को सूचना प्रदान नहीं की जाने से शासन की ओर से याचिका में कोई प्रभारी अधिकारी नियुक्त नहीं हो सका।



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आपके द्वारा माननीय न्यायालय में उपस्थित होकर जवाबदावा भी प्रस्तुत नहीं किया गया। माननीय उच्च न्यायालय में शासन की ओर से विभाग का पक्ष प्रस्तुत नहीं किये जाने से माननीय उच्च न्यायालय द्वारा एकपक्षीय आदेश दिनांक 07.01.2020 पारित किया जाकर परिवार पेंशन दिये जाने के निर्देश दिये गये हैं। इस प्रकार आपके द्वारा लापरवाही की जाना परिलक्षित हुई है।

आरोप क्रमांक -2 आप पर आरोपित है कि आपकी पदस्थापना के दौरान डब्ल्यू .पी.क्रमांक 28001/2019 में पारित एकपक्षीय आदेश दिनांक 07.01.2020 के पश्चात आपके द्वारा उक्त आदेश के संबंध में शासकीय महाधिवक्ता से अभिमत प्राप्त कर अपील की जाने की कार्यवाही किये बिना स्व . श्री अरुण मिश्रा की पत्नी श्रीमती मुक्ति मिश्रा को परिवार पेंशन स्वीकृति आदेश दिनांक 03.09.2020 पारित किया गया है। आपके द्वारा उक्त याचिका में पारित आदेश दिनांक 07.01.2020 के संबंध में मुख्यालय को भी अवगत नहीं कराया गया। इस प्रकार आपके द्वारा न्यायालयीन प्रकरण को गंभीरता से न लेते हुए घोर लापरवाही बरती गई है . जिससे राजस्व की क्षति संभावित है।”

9] A perusal of the aforesaid charges would also reveal that they are bereft of any sense, are illogical and appear to have been framed without application of mind , which cannot be countenanced in the eyes of law, and hence, are liable to be and hereby quashed.

10] Accordingly, the writ petition stands *allowed and disposed of*.

(SUBODH ABHYANKAR)
JUDGE

krjoshi