

HIGH COURT OF MADHYA PRADESH : JABALPUR**WRIT PETITION No.16425/2014**

Kuldeep Singh Kushwah & others

vs.

State of Madhya Pradesh & others

Coram :**Hon'ble Shri Justice A. M. Khanwilkar, Chief Justice
Hon'ble Shri Justice K.K. Trivedi, J.**

Whether approved for reporting ? - Yes/No.

Shri Manoj Sharma, Advocate for the petitioners.

Shri Piyush Dharmadhikari, Government Advocate for
respondents No.1 and 2.Shri Vivekanand Awasthy, Advocate for respondent No.3.

J U D G M E N T
(15/07/2015)**Per : K.K. Trivedi, J.**

1. Three petitioners in the present writ petition have approached this Court ventilating their grievance in respect of fixation of their salary in terms of the pay revision, which has occasioned on account of adopting the Madhya Pradesh Pay Revision Rules, 2009 by the High Court. It is contended by the petitioners that they were initially appointed on their post of Registrar (I.T.) in the High Court, in the pay scale of Rs.15100-400-18300/- on different dates. Petitioner No.1 was appointed on 23rd May, 2008 and petitioners No.2 and 3 were appointed on 10th July, 2009. The recommendations of the Pay Commission accepted by the State Government, formulated in the Madhya Pradesh Pay Revision Rules, 2009,

were accepted by the High Court and in the revised pay scale, the salary of the petitioners was required to be fixed in terms of the circular issued by the Finance Department of Government of Madhya Pradesh on 20th August, 2009. However, ignoring the table appended with the said instructions, the salary of the petitioners was fixed, which has resulted in loss of emoluments to them, therefore, they made representations, which were referred to the State Government. Certain clarification was asked by the High Court for fixation of the salary of the petitioners but since nothing was done, they were required to file the present writ petition. It is the contention of the petitioners that on account of wrong fixation of salary of the petitioners on revision of pay, they are paid less salary from the date of their initial appointment, whereas the revised pay scales have been made applicable with effect from 01.01.2006. Accordingly, the reliefs are claimed in the writ petition to the following effect :

- “(i) Call for the entire material record from the possession of the respondents, for its kind perusal;
- (ii) Command and direct the respondents to accord fixation of pay of petitioners in terms of Table 16-A referable to pay scale of Rs.15,100-18,300/- from their initial dates of appointment with all consequential benefits and arrears thereof with interest thereon;
- (iii) Any other order/orders, direction/directions may also be passed;
- (iv) Cost of the petition may also kindly be awarded.”

2. Upon service of notice of the writ petition, respondents have filed their return. It is contended by respondents No.1 and 2 in the return that since the option was not given in terms of Clarification No.3 so issued by the Finance Department of Government of Madhya Pradesh on 23.03.2009, the salary of the petitioners was rightly fixed.

The revised pay scales were made applicable for the officers and employees of the High Court in terms of the consent granted by Hon'ble the Chief Justice vide order dated 27.06.2009. The revised pay scale of Rs.15100-400-18300/- is Rs.37400-67000/- with Grade Pay of Rs.8700/-. The salary of the petitioners is already fixed in terms of the aforesaid table, which is accepted by the High Court and, therefore, the claim made by the petitioners cannot be granted as their salary has rightly been fixed by the High Court.

3. The respondent No.3 has filed separate return contending *inter alia* that when the Revision of Pay Rules were made applicable to the officers and employees of the High Court, pay fixation of the petitioners was done in the revised pay scale taking into account the date of their initial appointment. Accordingly, rightful salary is being paid to the petitioners. When the claim was made before the Registry of the High Court by the petitioners, guidance was sought from the State Government as to whether salary of the petitioners was to be fixed in terms of the table, as indicated by the Finance Department. The repeated representations of the petitioners were forwarded to the State Government. Since the fixation of salary of the petitioners was rightly done, no relief whatsoever is required to be granted to the petitioners.

4. We have heard learned Counsel for the parties at length and perused the record.

5. It is not in dispute that the Revision of Pay Rules were made in the year 2009. The Finance Department of Government of Madhya Pradesh has issued the circular dated 20th August, 2009, placed on record as Annexure P-8,

in which the manner of fixation of salary on account of revision of pay was categorically indicated. The tables were made and annexed with the aforesaid memo to indicate what would be the basic pay on the date of revision of pay in revised pay scale, which was made applicable with effect from 01.01.2006. It is not the case of the respondents that irrespective of the difference in the two pay scales, even when a common revised pay scale was prescribed, the fixation of salary was not to be done keeping in view the minimum of the pay scale of each **pre-revised pay scale**. In view of this, if we examine the table as also the schedule of the revised pay scale, it would be clear that though for the pre-revised pay scale of Rs.14300-400-18300/- and also for the pre-revised pay scale of Rs.15100-400-18300/-, a common revised pay scale of Rs.37400-67000 + Rs.8700/- Grade Pay was prescribed, yet while revising the salary, two different tables were to be looked into. For the pay scale of Rs.14300-400-18300/-, Table 16 is made applicable whereas for the pre-revised pay scale of Rs.15100-400-18300/-, Table 16-A is made applicable. The difference of fixation of salary is also apparently clear from the aforesaid two tables. While revising the salary in the revised pay scale, the incumbent, who was getting salary in the pay scale of Rs.14300-400-18300/-, would be fixed at the minimum of Rs.37400/- whereas in case of persons getting the salary in the pre-revised scale of Rs.15100-400-18300/-, the basic salary would be fixed at Rs.39,690/-. This has to be done because if two pay scales are merged in one revised pay scale, the person who was getting the salary in slightly higher pay scale, should not be put to financial loss on account of revision of pay scales.

6. Precisely this was the reason, while issuing the instructions relating to action to be taken for revision of pay,

different tables were appended with the instructions. Table 16 indicates pay fixation on revision of pay, with respect to the pay scale of Rs.14300-400-18300/-, which is as under :

तालिका 16			
मौजूदा वेतनमान	पुनरीक्षित वेतन बैंड + ग्रेड पे		
रू.14300-400-18300	PB-4 रू.37400-6700+ रू.8700		
मौजूदा वेतनमान में मूल वेतन	पुनरीक्षित वेतन		
	पे बैंड में वेतन	ग्रेड पे	पुनरीक्षित मूल वेतन
14300	37400	8700	46100
14700	37400	8700	46100
15100	38530	8700	47230
15500	38530	8700	47230
15900	39690	8700	48390
16300	39690	8700	48390
16700	40890	8700	49590
17100	40890	8700	49590
17500	42120	8700	50820
17900	42120	8700	50820
18300	43390	8700	52090

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Similarly, different Table 16-A was prescribed for fixation of salary of officers or employees, who were getting the salary in the pre-revised pay scale of Rs.15100-400-18300/-, which is as under :

“तालिका 16-अ

विद्यमान वेतनमान पुनरीक्षित वेतन बैंड + ग्रेड पे
 रू.15100-400-18300 पे बैंड-4 रू.37400-6700+ रू.8700

मौजूदा वेतनमान में मूल वेतन		पुनरीक्षित वेतन		
		पे बैंड में वेतन	ग्रेड पे	पुनरीक्षित मूल वेतन
1.	15100	39690	8700	48390
2.	15500	39690	8700	48390
3.	15900	40890	8700	49590
4.	16300	40890	8700	49590
5.	16700	42120	8700	50820
6.	17100	42120	8700	50820
7.	17500	43390	8700	52090
8.	17900	43390	8700	52090
9.	18300	44700	8700	53400

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 उप सचिव
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7. It is abundantly clear from the order of appointment issued in respect of the petitioners that they were specifically appointed in the pre-revised pay scale of Rs.15100-400-18300/- and, therefore, on coming into force of the Revision of Pay Rules for the officers and employees of the High Court with effect from 01.01.2006, the salary of the petitioners was to be fixed in the revised pay scale in the manner indicated in Table 16-A.

8. Instead of fixing the salary of the petitioners on revision of pay since they have been put at the minimum of

the revised pay scale in terms of Table 16, referred to herein above, treating as if they were appointed in the pay scale of Rs.14300-400-18300/-, the fixation of salary of the petitioners from the initial date of their appointment cannot be said to be just and proper. In view of the aforesaid, it is necessary for the respondents to re-fix the salary of the petitioners on revision of pay in terms of Table 16-A of the Revision of Pay Rules, as indicated herein above. The fixation of salary of the petitioners in the other manner cannot be said to be just and proper.

9. Accordingly, the writ petition is allowed. The petitioners would be entitled to fixation of their salary in the revised pay scale in terms of Table 16-A. The respondents are directed to do necessary exercise, revise and re-fix the salary of the petitioners from the initial date of their appointment in the revised pay scale as indicated herein above, within four weeks from the date of receipt of copy of this order and to calculate and pay all the arrears of salary to the petitioners within the aforesaid time.

10. The writ petition is allowed and disposed of.

(A.M. Khanwilkar)
Chief Justice

(K.K. Trivedi)
Judge

Skc