



1

WP-12759-2016

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 2nd OF DECEMBER, 2024WRIT PETITION No. 12759 of 2016*RAJENDRA PRASAD SHARMA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Shekhar Sharma - Advocate for the petitioner.

Shri Kamalnath Nayak, Panel Lawyer for the respondents-State.

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ORDER

By the instant petition, petitioner is challenging the pay fixation made by the respondents and proposed recovery of excess payment.

Petitioner was holding the post of Rural Horticulture Extension Officer and by introducing M.P. Revision of Pay Rules, 1990, a pay scale of Rs.1150-1800/- was granted to him with effect from 01.01.1986 but at the same time, the pay scale of graduates was different i.e. Rs.1200-1800/- and during the currency of that pay revision, the pay scale was again revised and the pay scale of graduates which was available on earlier occasion got changed and new pay scale of Rs.1200-40-1440-50-2040/- was granted. The petitioner acquired the graduation qualification w.e.f. 17.5.1986 and on that day he was on a pay of Rs.1280/- and therefore, from next year an increment in a new pay scale which was Rs.1200-2040/- was to be granted to the petitioner and as such, increment of Rs.40/- was granted to him w.e.f.



16.06.1986 and he was fixed on a pay of Rs.1320/-. There was nothing wrong in fixation of pay because after changing the pay scale, the increment of Rs.40 was to be granted to the petitioner instead of increment of Rs.30/- which was available in the earlier existing pay scale and as such proper fixation was made.

However, from the reply submitted by the respondents, it reveals that they misunderstood the implementation of the new pay scale and according to them, w.e.f. 17.05.1986, upon acquiring the qualification of graduation, petitioner's pay scale was to be fixed at Rs.1200-2040/- but considering his then existing status when he was already at Rs.1280/-, the said pay cannot be reviewed and that would not be started from Rs.1200/-, the initial stage of pay in a new pay scale and as such, the authority has not committed any illegality in fixing the pay of the petitioner, as such, no excess payment was made to the petitioner.

The petitioner got retired from service and even otherwise, no recovery after retirement can be initiated in which there was no false representation of an employee and if any excess payment was made to the petitioner, the said amount cannot be recovered. The proposed recovery was illegal and therefore, it is set aside. At the same time, it is observed that there was no mistake committed on earlier occasion fixing the pay of the petitioner and as such, stand of the respondent that a wrong fixation is made is also not sustainable and that observation and view of the authority being illegal and contrary to the existing position, is hereby set aside.

Accordingly, the petition is **allowed** directing the respondent to grant



3

WP-12759-2016

retiral dues to the petitioner on a pay scale from which he retired and if any amount is recovered, the same shall be refunded to the petitioner with the interest of 6% till the date actual payment is made to him.

(SANJAY DWIVEDI)
JUDGE

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