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WA-583-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

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HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 25th OF FEBRUARY, 2026WRIT APPEAL No. 583 of 2024*RAJESH PRASAD PANDEY AND OTHERS**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Sanjay Kumar Verma - Advocate for appellant.

Shri Ritwik Parashar - Government Advocate for respondent/State.

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ORDER

Per. Justice Pradeep Mittal

The appellant has filed the present writ appeal challenging the order dated 30.11.2023 passed by Writ Court in Writ Petition No.7870/2018 whereby the said writ petition has been dismissed holding that since the petitioners were not appointed in the year 2008 and were subsequently given appointment only by order dated 13.01.2017 therefore, they are not entitled for backwages from the date when other candidates were selected and were appointed.

2. The writ appeal is barred by 4 days, thus I.A. No.3312/2024 has been filed seeking condonation of delay.

3. For the reasons mentioned in the I.A. No.3312/2024, same is allowed.



4. The delay in filing the writ appeal is hereby condoned.

5. The appellants were initially appointed as daily rated employees in the year 1980 and had rendered more than 20 years of continuous service. In view of the judgment of the Hon'ble Supreme Court in Secretary, State of Karnataka vs. Uma Devi, reported in (2006) 4 SCC 1, the State Government took a one-time decision to regularize/appoint eligible daily wage employees to the post of Forest Guard. Accordingly, the Chief Conservator of Forest issued a communication dated 16.09.2008 notifying 1500 vacant posts of Forest Guard, out of which 1006 posts were to be filled after completing necessary formalities.

6. The appellants applied pursuant to the said notification and successfully cleared the written examination, interview and physical test. As per communication dated 03.11.2008 issued by the Chief Conservator of Forest, Rewa Circle, out of 262 candidates who appeared, 217 candidates were declared successful. Though 89 candidates were appointed and 92 posts were still lying vacant, the appellants, despite being included in the selection list and directed to submit their testimonials for verification, were not issued appointment orders. The validity of the selection list was extended by order dated 28.05.2010.

7. Subsequently, the appellants were issued appointment orders dated 26.08.2010 and joined duties after being declared physically and medically fit. However, their appointments were cancelled within a few days by order dated 09.09.2010 without assigning any reasons.

8. Aggrieved, the appellants filed W.P. No.14609/2010, which was



disposed of on 12.07.2011 in terms of the order dated 28.09.2010 passed in W.P. No.8938/2009(S), wherein this Court held that preparation of a District-wise merit list was faulty and directed the respondents to prepare a State-wise merit list and grant appointment to the petitioners in accordance with their merit. The said order was affirmed by the Division Bench in W.A. No.344/2011 and further challenge by the State before the Hon'ble Supreme Court in SLP No.17125-17126/2012 was dismissed on 05.05.2015. W.A. No.201/2012 was also dismissed on 19.08.2015, thereby rendering the issue final.

9. In compliance with the aforesaid judicial directions, the State Government prepared a State-wise merit list and the appellants were appointed as Forest Guards on probation by order dated 13.01.2017. However, juniors and less meritorious candidates had already been appointed in the year 2008, the appellants were not granted seniority and arrears of pay from that date.

10. The appellants filed W.P. No.15379/2017, which was disposed of on 25.10.2017 directing the respondents to decide their representation. By order dated 26.12.2017, the State Government granted seniority to the appellants from the date on which less meritorious candidates were appointed in 2008 but denied arrears of salary for the intervening period.

11. Challenging denial of arrears, the appellants filed W.P. No.7870/2018. The learned Single Judge, by order dated 30.11.2023, dismissed the writ petition holding that since petitioners were not appointed in the year 2008 and were subsequently given appointment only by order



dated 13.01.2017, therefore, they are not entitled for backwages from the date when other candidates were selected and were appointed.

12. Learned counsel for the appellants submits that the appellants were duly selected in the recruitment process initiated pursuant to the notification dated 16.09.2008 and had successfully cleared all stages of selection. Their non-appointment in the year 2008 was solely on account of preparation of a District-wise merit list, which was subsequently held to be faulty by this Hon'ble Court. The said finding attained finality up to the Hon'ble Supreme Court, and in compliance thereof, the appellants were appointed on 13.01.2017 after preparation of a State-wise merit list.

13. It is further submitted that pursuant to directions issued in earlier proceedings, the appellants have been granted seniority from the date on which their juniors and less meritorious candidates were appointed in the year 2008. Once retrospective seniority has been granted and the earlier denial of appointment has been found unsustainable, denial of arrears of salary for the intervening period amounts to incomplete and improper compliance of the binding judicial directions. The appellants were always ready and willing to serve and were prevented from discharging their duties due to the erroneous action of the respondents.

14. Learned counsel contends that the learned Single Judge erred in applying the principle of "no work no pay" mechanically, without appreciating that the appellants were kept out of service for no fault attributable to them. The action of the respondents in denying monetary benefits, despite granting retrospective seniority, is arbitrary and violative of



Articles 14 and 16 of the Constitution of India. It is, therefore, prayed that the impugned order be set aside and the appellants be held entitled to arrears of pay and consequential benefits from the date their juniors were appointed.

We have heard learned counsel for the parties and perused the record.

15. In view of the foregoing discussion, the undisputed factual matrix clearly establishes that the appellants were duly selected pursuant to the recruitment process initiated vide notification dated 16.09.2008 and had successfully completed all stages of selection in the year 2008 itself. Their non-appointment at the relevant time was not attributable to any fault or disqualification on their part, but solely on account of the erroneous preparation of a District-wise merit list, which was subsequently declared illegal by this Court and the said finding attained finality up to the Hon'ble Supreme Court.

16. It is further evident that the respondents, in compliance with judicial directions, have granted retrospective seniority to the appellants from the date on which their juniors and less meritorious candidates were appointed in the year 2008. Once such retrospective seniority has been granted on the premise that the appellants were wrongfully denied appointment at the relevant time, denial of arrears of salary for the intervening period amounts to incomplete and inconsistent implementation of the binding judicial directions.

17. The principle of “no work no pay” cannot be applied in a mechanical manner in a case where the employee was ready and willing to serve but was prevented from doing so due to the illegal action of the



employer. The delay in appointment from 2008 till the issuance of the regular appointment order dated 13.01.2017 is wholly attributable to the respondents. The appellants were continuing in service since 1980 as daily rated employees and were given regular appointment in the year 2010 and they are continued in service as Forest Guard till now, however, their appointments were cancelled on 09.09.2010, which was held bad in law by this Court.

18. Moreover, in an identical matter arising out of the same recruitment process, in W.P. No. 20612/2018 (Nand Kishore Patel & Others Vs. State of M.P. & others), decided on 16.04.2024, it has been held that once the cancellation of appointment is declared bad in law, the petitioners therein are entitled to seniority and the difference of salary from the date of their initial appointment. Against the said order dated 16.04.2024, Writ Appeal No. 2267/2024 was filed, which came to be dismissed. The said dismissal was further challenged before the Hon'ble Supreme Court by way of Special Leave Petition (Civil) Diary No(s). 34567/2025, which also came to be dismissed. Thus, the said judgment has attained finality up to the Hon'ble Supreme Court. Denial of similar relief to the present appellants would, therefore, result in discriminatory treatment and would offend Articles 14 and 16 of the Constitution of India.

19 . Accordingly, the writ appeal deserves to be and is hereby allowed.

20. The order dated 30.11.2023 passed by the learned Single Judge in W.P. No.7870/2018 is quashed and set aside. The appellants were issued



appointment orders dated 26.08.2010 and joined duties after being declared physically and medically fit. However, their appointments were cancelled within a few days by order dated 09.09.2010 without assigning any reasons. Therefore, appellants are held entitled to arrears of pay and all consequential monetary benefits from the month of September 2010. The respondents are directed to extend the said benefit to the appellants within four months from the date of receipt of a certified copy of this order.

No order as to costs.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE

Praveen