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WA-422-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 29th OF AUGUST, 2025

WRIT APPEAL No. 422 of 2025

RANI DURGAWATI VISHWA VIDYALAYA JABALPUR AND OTHERS

Versus

THAKUR RAJENDRA SINGH GAHARWAR AND OTHERS

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Appearance:

Shri Paritosh Gupta - Advocate for the appellants.

Shri Devdatt Bhawe, learned counsel for the respondent [R-1][ON
ADVANCE COPY](Caveat).

Shri Abhimanyu Singh, learned counsel for the respondent
[CAVEAT].
.....

ORDER

Per. Hon'ble Shri Justice Vinay Saraf

1. In the instant petition, the appellant/University has assailed the order dated 14.08.2024 passed in W.P.No.26585/2023, whereby the writ petition preferred by the respondent/employee was allowed and the order dated 03.04.2023 was set aside, by which the pay fixation of the respondent was revised by the Registrar and the erroneously paid amount was proposed to be recovered from the retiral dues. Further direction was issued to pay the retiral dues to the respondent within a period of 90 days along with the



interest @6% per annum.

2. Heard Shri Paritosh Gupta, learned counsel for the petitioner, Shri Devdatt Bhawe, learned counsel for the respondent no.1 and Shri Abhimanyu Singh, learned counsel for the respondent [CAVEAT] for the purpose of final disposal of the appeal.

3. The short facts of the case are that the respondent was appointed on the post of Glass Blower on an ad hoc basis vide order dated 15.09.1989 after following the due process of recruitment against the vacant permanent sanctioned post and subsequently regularised vide order dated 15.12.1994. The pay scale of the respondent was revised w.e.f. 01.01.1996, however, similarly situated employee namely; Santosh Kumar Jain, who was holding the same post of Glass Blower in the appellant/University was also considered in the revised pay scale and subsequently in compliance of the decision of Executive Council dated 27.09.1997, his pay scale was upgraded, whereas respondent was also performing the same duties and therefore, the respondent made representation to the authority for equal benefit, which was extended to the similarly situated employee i.e. Santosh Kumar Jain and when the representation was not considered, W.P.No.2367/2004 was filed by the respondent, which was disposed of on 04.05.2004 with a direction to the University to consider the case of the respondent and if it is found that he is similarly situated to that of Santosh Kumar Jain, then the same benefit be extended to the respondent. Thereafter, the representation was rejected by the authorities and respondent preferred another W.P.No.1204/2005 (s), however, during the pendency of the writ petition, the appellant/University



assured the respondent to extend the same benefit and therefore, he withdrew the writ petition after bringing the facts on record.

4. The Executive Council of the University had taken a decision on 13.02.2008 to extend the similar pay scale to the respondent, which was fixed for similarly situated employee i.e. Santosh Kumar Jain. The decision of the Executive Council was put up before the Vice Chancellor and Vice Chancellor approved the recommendation of the Council and consequently, new revised pay fixation was fixed w.e.f. 01.01.2000 by order dated 07.06.2008. After completing the age of superannuation, the respondent stood superannuated on 31.07.2022 and when his case was scrutinized for the purpose of fixation of pension, payment of gratuity, leave encashment and other retiral dues on 15.12.2022, the Registrar revised the pay scale of the respondent contrary to the recommendation of the Executive Council and thereafter passed an order on 13.04.2023 for recovery of the amount paid to the respondent on the basis of earlier pay fixation dated 07.06.2008. The respondent assailed the order dated 13.04.2023 in W.P.No.26585/2023 on the ground that the Registrar has no authority to revise the pay scale which was already approved by the Vice Chancellor in compliance of the order passed by the High Court. The order passed by the Registrar was examined by the writ court and after considering the factual matrix of the case, learned Single Judge has held that the Executive Council was competent to take decision for grant of pay scale to the employees of the University and decision of the Executive Council dated 13.02.2008 was intimated on 07.06.2008 after obtaining the approval from the Vice Chancellor and,



therefore, the Registrar had no authority to revise the payscale after a period of 14 years. Relying upon the judgment of the Supreme Court in the matter of *State of Punjab Vs. Rafiq Masih(White Washer) (2015) 4 SCC 334*, learned Single Judge allowed the writ petition and set aside the order dated 13.04.2023 with further direction to the authorities to calculate the retiral claims of the respondent and pay the same within a period of 90 days from the date of receipt of certified copy of the order with interest @6% per annum from the date of entitlement till the date of realization.

5. Shri Paritosh Gupta, learned counsel for the appellant/University submits that the Registrar was competent to revise the pay scale which was erroneously extended to the respondent and when the matter came to the knowledge of the authorities, the authorities were under obligation to take appropriate action to correct the decision of revision of pay scale and thus, the appellant has not committed any error in revising the pay scale of the respondent qua issuance of recovery order.

6 . *Per contra*, learned counsel appearing for the respondent no.1 opposes the prayer of the appellant and supports the order passed by the learned Single Judge.

7. From perusal of the documents available on record, it appears that by order dated 04.05.2004 passed in W.P.(s) No.2367/2004, direction was issued to consider the case of the respondent and if the respondent is found to be similarly situated to the other employee i.e. Santosh Kumar Jain, similar benefit be extended to him and when the representation of the respondent was rejected, the respondent preferred W.P.No.1204/2005 which was



withdrawn by the respondent on 02.09.2011 as the Executive Council of the University had already decided to extend similar benefit to the respondent by decision dated 13.02.2008 which was approved by the Vice Chancellor and new revised pay fixation was made applicable w.e.f. 01.01.2000 vide order dated 07.06.2008. Meaning thereby, the representation of pay scale was decided in compliance of the direction issued by the High Court and the decision taken by the Executive Council was duly approved by the Vice Chancellor. There is no document on record to demonstrate that the decision taken by the Executive Council and approved by the Vice Chancellor was ever reconsidered by them, on the contrary after superannuation of the respondent, at the time of calculation of the retiral dues, the Registrar of the University was of the opinion that earlier pay fixation order dated 07.06.2008 was passed erroneously and by order dated 15.12.2022, the Registrar issued direction for re-fixation of the salary of the respondent. Thereafter, the matter was examined and by order dated 13.04.2023, the pay fixation was revised and recovery was initiated by the Registrar.

8. We are in the agreement with the finding recorded by the learned Single Judge that when the pay scale was revised in compliance of the order passed by the High Court and recommendation made by the Executive Council, same cannot be disturbed by the Registrar and the Executive Council was competent to take decision on the subject matter. Learned Single Judge has rightly held that pay scale cannot be revised after superannuation of the employee and amount cannot be recovered as the employee was not responsible for the pay fixation and order dated



13.04.2023 was incorrect, illegal and has been correctly set aside by the learned single Judge. There is no infirmity in the order passed by the learned single Judge.

9. Considering the facts and circumstances of the case, we find that no relief can be granted to the appellant and consequently the appeal is dismissed.

10. The respondent has superannuated on 31.07.2022 but the retiral dues have not been paid to him till today. Learned Single Judge had already issued directions to pay the retiral dues within 90 days from the date of order but the same has not been paid despite the fact that there was no stay.

11. Considering the same, we deem it proper to issue direction to the appellant to make payment of the retiral dues to the respondent no.1, as directed by learned single Judge in W.P.No.26585/2023 within a period of six weeks from today.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

P/-