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WP-6389-2018

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

ON THE 4th OF AUGUST, 2025WRIT PETITION No. 6389 of 2018*GAJANAND KUMRAWAT**Versus**TRIBAL WELFARE DEPARTMENT AND OTHERS*

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Appearance:

Shri Rahul Joshi, learned counsel for the petitioner.

Shri Kushagra Jain, learned counsel for the respondent/state.

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ORDER

Learned counsel for the petitioner submits that the matter is covered by the judgment passed by this Court in the case of Asha Rathore Vs. State of MP passed in WP NO.7280/2025.

Learned counsel for the respondent/state was granted time to examine the same.

After examining the same, he submits that the matter is covered by the said judgment.

The order reads as under:-

1. This order shall govern disposal of Writ Petition Nos.7280/18, 5310/18, 6434/18, 6688/18, 7285/18, 7319/18, 7673/18, 8333/18, 8386/18, 8906/18, 8995/18, 11529/18, 11620/18, 12933/18, 13932/18 & 14822/18. Regard being had to the similitude of the controversy involved in the aforesaid petitions, they are heard analogously and disposed of by this common order.

2. The petitioners, who have served the Tribal Welfare Department of Madhya Pradesh in various roles, have approached this Court under Article 226 of the Constitution of India, seeking



quashment of orders passed by the respective authorities denying them the benefit of regular pay scale from the date of completion of five years of continuous service.

3. The grievance of the petitioners is that despite long years of service, they have not been granted the regular pay scale from the date of their entitlement, and the respondents have instead extended benefits only from the date of filing their respective writ petitions, which is contrary to the benefits extended to similarly placed employees in compliance of the orders passed by the Division Bench of this court in *Revaram vs. State of MP* (WA No. 355/2010) and *Kailash Talware vs. State of MP* (WA No. 359/2010).

4. The petitioners had previously approached this Court by filing writ petitions which were disposed off by a common order dated 01.10.2018. In the order dated 01.10.2018 this Court held that the petitioners were not entitled to regular pay scale benefits from the date of completion of five years of service, but only from the date of filing the writ petitions. The Court in its order reasoned that the petitioners continued as daily wage employees and that since their services had not been regularized due to the nonavailability of vacant posts they were not entitled to get the benefit of regular pay scale. The Court also relied on earlier decisions, including W.A. No. 62/2015 (*Poonam Chand More vs. State of M.P.*) in which similar claims for regularization were dismissed. The writ petitions were, therefore, disposed of with an observation that the respondents would consider the cases for regularization as and when permanent posts became available. Dissatisfied with the outcome the petitioners preferred batch of Writ Appeals (W.A. 133/2019 and other Connected Matters), which were subsequently dismissed by the Division Bench vide order dated 02.08.2019.

5. Aggrieved by the dismissal of the Writ appeals, the petitioners approached the Hon'ble Supreme Court through SLP (C) No. 30160/2024 and other connected matters which were disposed off vide order dated 04.12.2024. The Supreme Court in disposing off the SLP, set aside the orders of both the Single Bench and the Division Bench of this Court and remanded back WP No. 7280/2018 (*Asha Rathore & Ors.*) and similar writ petitions for fresh consideration by this Court, directing that the cases be decided based on their individual merits, particularly considering the principles laid down in *Secretary, State of Karnataka v. Umadevi* reported in (2006) 4 SCC 1.

Facts of the Case (for the sake of convenience, facts of W.P. No. 7280/2018 are taken) :-

6. The petitioner, Asha Rathore, was appointed as a Waterman on 29.01.1993 in the Tribal Welfare Department and continuously served in that capacity without interruption. Upon the completion of five years of uninterrupted service on 29.01.1998, the petitioner



became eligible for the benefit of a regular pay scale in accordance with the prevailing policies of the State Government. Despite her eligibility, the petitioner was denied the benefit of a regular pay scale, which prompted her to approach this Court by filing WP No. 10615/2012 which was disposed off on 30.11.2013, with the direction to the respondents to consider the petitioner's case in light of the judgments rendered in *Revaram vs. State of MP* (WA No. 355/2010) and *Kailash Talware vs. State of MP* (WA No. 359/2010), wherein similarly situated employees had been granted the benefit of a regular pay scale from the date of their entitlement, rather than from the date of filing their respective writ petitions. In compliance with the said order, the respondents considered the petitioner's claim but extended the benefit only from 06.11.2012, the date on which the petitioner had filed her earlier writ petition, and not from 29.01.1998, the actual date on which she completed five years of continuous service and became eligible. Dissatisfied with this partial compliance, the petitioner submitted several representations requesting that the arrears be calculated from the date of entitlement. However, her claims were repeatedly denied. Consequently, the petitioner filed WP No. 5528/2014, which was allowed on 06.02.2015, wherein this Court once again directed the respondents to extend the benefit of the regular pay scale from the date of entitlement, i.e., 29.01.1998. Despite the clear directive of this court, the respondents failed to fully comply the order and instead only subsequently issued an order dated 18.08.2017, restricting the benefits to the date of filing the original writ petition. The petitioner, aggrieved by the persistent refusal of the respondent to honor the directions of court has approached this Court challenging the said order dated 18.08.2017, seeking its quashment and further directions to the respondents to grant her the benefits from the date of entitlement.

7. Learned counsel for the petitioners contended that the denial of arrears from the date of entitlement is arbitrary, discriminatory, and contrary to established legal principles. He submitted that the petitioners became entitled to the benefit of a regular pay scale upon the completion of five years of continuous service in accordance with the applicable policies. By refusing to grant their arrears from the date of entitlement, the respondents have acted in violation of the principles of equality enshrined under Article 14 of the Constitution of India. The counsel for petitioners placed reliance on the judgments rendered in *Revaram vs. State of MP* (WA No. 355/2010) and *Kailash Talware vs. State of MP* (WA No. 359/2010), where similarly situated employees were granted benefits from the date of entitlement. He submitted that the respondents were directed by this Court to consider the case of petitioners in light of these judgments and were obligated to extend similar benefits to the petitioners. The learned counsel submitted that the refusal of respondent to do so amounts to discrimination, particularly when other similarly placed employees have been granted benefits from the date of entitlement.



Furthermore, it was contended that the reliance of respondents on the date of filing the writ petition as the effective date for granting benefits is wholly unsustainable in law. The right of petitioners to the benefit accrued upon the completion of five years of continuous service, and the subsequent denial of arrears from that date has caused financial prejudice to the petitioners. Counsel also pointed out that the failure of respondents to comply with the previous orders of this court has compelled the petitioners to initiate multiple rounds of litigation, thereby causing undue hardship. The counsel for petitioners thus prayed for quashment of the impugned orders and for direction to the respondents to grant the regular pay scale benefits from their date of entitlement along with arrears and interest.

8. Per contra, learned counsel Deputy A.G. appearing on behalf of the respondents contended that, the petitioners were initially appointed as daily wage workers. They are not eligible for the benefits claimed under the circular dated 17.03.1978, which was applied exclusively to contingency paid employees. He submitted that the petitioners being daily wage employees could not claim parity with those employees who had been appointed against sanctioned posts or whose appointments had been regularized in accordance with established procedures. The respondents further contended that the circular dated 17.03.1978, under which the petitioners seek benefits, has been superseded by a subsequent circular dated 28.02.2014, which nullified the previous entitlements. He submitted that the claim of petitioners even if valid under the earlier circular, had been rendered infructuous in view of the later policy. It was also submitted that the respondents had, in fact, complied with the directions of this Court by extending the benefits to the petitioners from the date of filing of their writ petitions. Respondents submit that the petitioners were not entitled to claim arrears from a retrospective date, as no corresponding sanctioned post existed for their regularization. The respondents expressed concerns regarding the financial implications of granting arrears from the date of entitlement, stating that such a direction would impose an undue burden on the State exchequer. The respondents prayed that the impugned orders were passed in accordance with the applicable rules and policies and the petitioners are not entitled to any further relief and these Writ Petitions be dismissed.

I have heard learned counsel for the parties at length.

9. The facts stated in the petition and the return are not in dispute. The entire claim of the petitioners is based on the circular dated 17.3.1978 issued by the Finance Department, State of Madhya Pradesh.

10. By the aforesaid circular the doubts were clarified in respect of implementation of the Madhya Pradesh Work Charge



Contingency Pay Fixation Rules, 1977 working in various government departments. Earlier contingency paid employees were getting the consolidated pay, therefore, from 1.1.1974 first time the pay scale was fixed for the purpose of payment of salary/wages to them. As per the answer to query No.6, these rules were made applicable to the employees who were already in service. They were kept in two categories – (1) the employees who have completed one year service from 1.1.1974 were granted the benefit of revision of pay scale and remaining employees were held entitled to get the benefit of pay after completion of 5 years of service and continuity in the service. Respondents have rejected the claim of the petitioners only on the ground that this benefit of circular was made applicable to the employees who were appointed prior to 1.1.1974 and since the petitioners were appointed after 1.1.1974, therefore, they are not entitled for the benefit of circular dated 17.3.1978. The Clause 6 is reproduced below:-

“ये नियम केवल उन कर्मचारियों को ही लागू होंगे जो नवीन सेवा के सदस्य हैं अथवा भविष्य में इस सेवा के सदस्य होने के पात्र होंगे। अर्थात् जो कर्मचारी दिनांक 01.01.74 को एक वर्ष की सेवा पूर्ण कर चुके होंगे उन्हें पुनरीक्षित वेतनमानों का लाभ प्राप्त होगा और अन्य कर्मचारियों को इन वेतनमानों का लाभ तब प्राप्त होगा जब वे 5 वर्ष की सेवा पूर्ण कर चुकेंगे और सेवा के सदस्य होने के पात्र होंगे।”

11. As discussed above, those employees who had completed one year of service on 1.1.1974, they were granted the benefit and second set of employees who were appointed after 1.1.1974 and completed 5 years of service are claiming revised pay scale after completion of 5 years service. The respondents further submitted in the return that the Circular dated 17.3.1978 has been nullified vide another circular issued by Finance Department dated 28.1.2014, hence, it is no more applicable on daily rated employees. The aforesaid contention is liable to be rejected on the ground that before issuance of circular dated 28.1.2014, the right had already been accrued in favour of the petitioners to get the benefit of circular dated 17.3.1978 and all these petitioners were appointed prior to 28.1.2014 as daily rated under the contingency paid establishment. Therefore, the cancellation or superceding the Circular dated 17.3.1978 on later date cannot be a reason to deny the benefit to the petitioners. The respondents cannot submit that the petitioners cannot claim parity with Rewaram (WA No.355/2010 decided on 12.5.2014) and order dated 10.4.2014 passed in WA No.359/2010 (Kailash Chandra Vs. State of M.P. and others) on the ground that the petitioners therein have been given benefit of regular pay scale after completion of 5 years of service before 1.1.1974 and the petitioner was appointed on 29.1.1993.

12. As discussed above, the cut-off date 1.1.1974 was made applicable to those employees who were appointed prior to



1.1.1974 and they were given benefit of revision pay scale who had completed one year's service upto 1.1.1974, and for other employees like petitioners the benefit is liable to be given after completion of 5 years of service. The petitioner was appointed on 29.1.1993 became entitled to get benefit of new pay scale after completion of 5 years of service i.e. in the year 1998. Earlier the petitioner had been given the benefit of regular pay scale Rs.2550-3200 vide order dated 10.7.2014 from the date of filing of writ petition i.e. 6.11.2012 relying on circular dated 17.3.1978. The petitioners challenged the said order only on the ground that they were wrongly given the benefit from the date of filing of petition, whereas they are entitled to the benefit from the date of completion of 5 years of service. The writ petition was disposed of by applying the judgment passed in the case of Kailashchandra (supra) mutatis mutandis, but by the impugned order dated 18.8.2017 they have not been held entitled to get regular payscale. Therefore, benefit which had already been given to them, was not directed to be withdrawn by this Court in WP No.5528/2014. With the consent of parties, the petition was disposed of by observing that the identical case has already been decided by the Division Bench of this Court in WA No.359/2010 (Kailashchandra Vs. State of M.P.).

13. Shri Kailashchandra filed a Writ Appeal No.359/2010 which came to be allowed vide order dated 10.4.2014 directing respondents to verify and if it is found that the petitioner is identically placed person, then the regular pay scale be given after completion of 5 years of service with all consequential benefits. In the light of the aforesaid judgment, the claim of the petitioner was considered and the benefit of regular pay scale was given from the date of filing petition 6.11.2012. Relevant para is reproduced below:-

"अतः शासन निर्देशानुसार एवं गठित समिति की अनुशंसा एवं कलेक्टर महोदय के अनुमोदन अनुसार माननीय न्यायालय खण्डपीठ इंदौर द्वारा पारित निर्णय के पालन में याचिकाकर्ता कु. आशा राठौर भृत्य दैनिक वेतनभोगी कर्मचारी को म.प्र. शासन वित्त विभाग के जापन क्रमांक डी-302/95/नि-1/4/78 दिनांक 17.03.78 की कंडिका -6 अनुसार कु. आशा राठौर भृत्य दैनिक वेतनभोगी कर्मचारी की प्रथम नियुक्ति दिनांक 29.01.1993 होने के कारण सेवा में 05 वर्ष की अवधि पूर्ण करने के दिनांक 29.01.1998 से कार्यभारित एवं आकस्मिकता निधी सेवा की स्थापना में पदस्थ किया जाकर नैमेतिक मद में वेतनमान 2550-3200 में रुपये 2550/- वेतन एवं शासन द्वारा प्रचलित महंगाई भत्ता दिये जाने की स्वीकृति माननीय सर्वोच्च न्यायालय एवं उच्च न्यायालय में विचाराधीन क्रमशः एस०एल०पी०/रिट अपील /रिव्यू याचिकाओं में होने वाले निर्णय के अध्यधीन प्रदान की जाती हैं। माननीय न्यायालय के निर्णय अनुसार याचिकाकर्ता को वेतनमान का वास्तविक लाभ रिट याचिका प्रस्तुत किये जाने के दिनांक 06.11.2012 से देय होगा।

उक्त स्वीकृति आदेश माननीय उच्च न्यायालय खण्डपीठ



इन्दौर द्वारा प्रकरण क्रमांक WP 10615/2012 (s) में पारित निर्णय के संदर्भ मात्र कु. आशा राठौर दैनिक वेतनभोगी कर्मचारी के लिए जारी किया जा रहा है। यह स्वीकृति किसी अन्य प्रकरण में उदाहरण स्वरूप मान्य नहीं होगी।"

14. Again the petitioner approached this Court by filing WP No.5528/2014 and the writ petition was allowed by following order:-

"Keeping in view the above undisputed position, the present writ petition is disposed of by holding that the directions issued in the matter of Kailash Chandra (supra) by the Division Bench of this Court will apply mutatis mutandis in the present case and the respondent will examine the petitioner's case in the light of the aforesaid directions within a period of three months from the date of receipt of certified copy of this order."

15. Therefore, a writ of mandamus was issued to the respondents to treat the petitioner at par with Kailash Chandra for grant of benefit of regular pay scale from the date of initial appointment, the respondents malafidely passed the wrong order dated 18.8.2017 to deny the legitimate claim of the petitioner, despite several orders passed by this Court.

16. Therefore, the writ petition is allowed. Order dated 18.8.2017 is hereby set aside. The petitioner be given the benefit of regular pay scale after completion of 5 years service from the date of initial appointment in view of the circular dated 17.3.1978. All the consequential benefits be also given to the petitioner. The order passed by the Collector, Barwani is set aside with a cost of Rs.20,000/-. The cost is imposed for the reason that unnecessarily the Collector has compelled all these petitioners to approach this Court and thereafter up to the Supreme Court.

17. Signed order be kept in the file of WP No.7280/2018 and a copy thereof be placed in the file of connected WP Nos.5310/18, 6434/18, 6688/18, 7285/18, 7319/18, 7673/18, 8333/18, 8386/18, 8906/18, 8995/18, 11529/18, 11620/18, 12933/18, 13932/18 & 14822/18."

The order passed in the aforesaid case shall apply mutatis mutandis in the present case also and it is directed that the petitioner be given the benefit of regular pay scale after completion of 5 years service from the date of initial appointment in view of the circular dated 17.3.1978. All the consequential benefits be also given to the petitioner. The order passed by the Collector, Barwani is set aside.



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With the aforesaid, the present petition stands allowed and disposed
of.

(VIJAY KUMAR SHUKLA)
JUDGE

Sourabh