IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

ON THE 3rd OF AUGUST, 2023

WRIT PETITION No. 19096 of 2023

BETWEEN:-

SOMESH KUMAR DIXIT S/O SHRI HARNARAYAN DIXIT, AGED ABOUT 58 YEARS, OCCUPATION: SERVICE R/O- POST KANATHAR DISTRICT BHIND (MADHYA PRADESH)

.....PETITIONER

(BY SHRI DEVENDRA SHARMA - ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY DEPARTMENT OF WATER RESOURCES, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **ENGINEER IN CHIEF WATER RESOURCE DEPARTMENT BHOPAL (MADHYA PRADESH)**

3. **EXECUTIVE ENGINEER ELECTRICAL AND ENGINEERING DEPARTMENT HEAVY MACHINERY, WATER RESOURCES DEPARTMENT, THATIPUR DISTRICT GWALIOR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI M.S. JADOUN - GOVERNMENT ADVOCATE)

This petition coming on for hearing this day, the court passed the following:

ORDER

1. By this petition, filed under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs:

"(i) That, respondents may kindly be directed to

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release benefit of I, II and III time pay scale to the petitioner from the due date i.e. completion of 10, 20 and 30 years in service respectively.

(ii) That, respondent may kindly be further directed to release aforesaid benefit alongwith the interest to the tune of 9% PA from the due date to actual date realization.

(iii) That, cost of the litigation to the tune of Rs.25,000/- be also directed to be paid.

(iv) Any other relief which this Hon'ble Court deems fit in the facts and circumstances of the case may also kindly be granted."

2. At the outset, learned counsel for petitioner referred the judgment of this Court passed in the case of **Tejulal Yadav v. State of M.P. and others** reported in **ILR (2009) M.P. 1326** decided **on 23.1.2009** and seeks parity. It is further submitted that said judgment has been passed on placing reliance upon the earlier judgment passed in the case **K. L. Asre v. State of M.P. passed on 7.11.2005 in Writ Petition (S) No.1070/2003.**

3. According to the counsel for petitioner, the State Government issued a circular dated 21.9.2016 granting the benefit to the work charge contingency paid establishment employees with effect from 1.1.2016. However, executive instructions issued by the State Government cannot supersede the judgment delivered by this court, which attained finality and, therefore, the executive instructions issued by the State Government to the extent that cut-off date has been fixed has been quashed. Therefore, petitioner is entitled for all consequential benefits.

4. Learned counsel for respondents opposed the prayer but however could not dispute the facts.

5. Considering the submissions made by counsel for the parties, this

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petition is disposed of with a direction that the petitioner is also entitled for the same benefit as other similarly placed employees like **Tejulal Yadav, K. L. Asre and Gendalal, etc. (petitioners in Writ Petition No.461/2018)** and the judgment passed in those orders would apply *mutatis mutandis* in the case of petitioner. He shall be entitled for monetary benefits and arrears for the said period. Exercise of passing an appropriate order granting the benefit be concluded within a period of six months from the date of receipt of certified copy of this order.

6. With the above, this petition stands **disposed of.**

(ANAND PATHAK)
JUDGE

Rashid

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