IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 25th OF JULY, 2023

WRIT PETITION No. 17955 of 2023

BETWEEN:-

ASHOK KUMAR DUBEY S/O SHRI SITA RAM DUBEY, AGED ABOUT 67 YEARS, OCCUPATION: RETIRED, R/O BHONDELE KI GALI, RIGHHERA PHATAK, DATIA (MADHYA PRADESH)

.....PETITIONER

(SHRI ALOK KUMAR SHARMA - ADVOCATE)

AND

1. **STATE OF MADHYA PRADESH THROUGH PRINCIPAL SECRETARY, PUBLIC HEALTH ENGINEERING DEPARTMENT, MANTRALAYA, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**

2. **ENGINEERING-IN-CHIEF, PUBLIC HEALTH ENGINEERING DEPARTMENT, JAL BHAWAN, BANGANGA ROAD, DISTRICT BHOPAL (MADHYA PRADESH)**

3. **CHIEF ENGINEER, PUBLIC HEALTH ENGINEERING DEPARTMENT, NEAR WATER TANK, MORAR, GWALIOR (MADHYA PRADESH)**

4. **EXECUTIVE ENGINEER, PUBLIC HEALTH ENGINEERING DEPARTMENT, DIVISION, DATIA (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI VIVEK KHEDKAR - ADDITIONAL AG FOR STATE)

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

ORDER

This petition under Article 226 of the Constitution of India has been filed

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by the petitioner being aggrieved by the inaction/order of the respondents, whereby the claim of petitioners for encahsment of the earned leave has been rejected on the ground that he is a retired work charged employee and not entitled to leave encahsment.

Petitioner has placed reliance on the decision rendered in ***W.A. No.470/2012 (The State of Madhya Pradesh Vs. Ram Khilawan Singh)***, preferred by the State of M.P. against the order dated 29.06.2011 passed in W.P. No.9930/2011.

Petitioner has also relied on Rule 4 of M.P. Work Charged and Contingency Paid Employees Leave Rules, 1977 (in short '1977 Rules'). The Division Bench in the case of ***Ram Khilawan Singh (supra)*** has considered the identical issue raised therein, wherein the single Judge has allowed the petition preferred by a contingency paid employee and held him entitled for leave encahsment of 240 days. This order was modified by the Division Bench in view of the admission of the State Government and Rule 4 of 1977 Rules which provides that an employee working under the work charged establishment is entitled for the benefit of encahsment of 120 days earned leave.

Per contra, the petition is vehemently opposed by the counsel for the State.

Heard learned counsel for the parties.

In view of the fact that the issue in the present case is identical to the case of ***Ram Khilawan Singh (supra)*** and the said judgment is squarely applicable to the present case also, this petition is allowed. The respondents are directed to extend the benefit of encashment of 120 days of earned leave to the petitioner as admissible under 1977 Rules within a period of 90 days from the date of production of certified copy of the order passed today.

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With the aforesaid, this petition is ***disposed of***.

Certified copy as per rules.

(MILIND RAMESH PHADKE)
JUDGE

Rohit

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