IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

ON THE 6th OF SEPTEMBER, 2023

WRIT PETITION No. 19280 of 2023

BETWEEN:-

YADVENDRA SHUKLA S/O SHRI DWARIKA PRASAD SHUKLA, AGED ABOUT 66 YEARS, OCCUPATION: RETIRED VILLAGE SALWAL TEHSIL DABRA DISTRICT GWALIOR (MADHYA PRADESH)

.....PETITIONER

(BY SHRI DEVENDRA RAJORIYA - ADVOCCATE)

AND

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

2. **ENGINEER IN CHIEF WATER RESOURCE DEPARTMENT JAL SANSADHAN BHAWAN TULSI NAGAR BHOPAL (MADHYA PRADESH)**

3. **CHIEF ENGINEER YAMUNA BASIN, WATER RESOURCES DEPARTMENT CHAMBAL COLONY, THATIPUR, MORAR GWALIOR (MADHYA PRADESH)**

4. **EXECUTIVE ENGINEER HARSI WATER RESOURCES DEPARTMENT DABRA, DIST. GWALIOR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI N.S.TOMAR - GOVERNMENT ADVOCATE)

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

ORDER

1. The present petition has been filed under Article 226 of the

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Constitution of India prays for the following relief:-

> (i) That, the impugned order dated 22.12.2021 Annexure P/1 may kindly be declared as illegal and the kindly be quashed, and a direction may kindly be given to the respondents to pay the minimum of the pay of the classified post as per graded pay scale from the date of his classification as held by the Hon'ble Supreme Court passed in the case of Ram Naresh Rawat.
>
> (ii) Any other relief, which this Hon'ble Court may deem fit and proper, may also be given to the petitioner.

2. Petitioner who happens to be a Helper submit that despite having been classified as a permanent employee, no benefit of regular pay scale has been extended to him.

3. It is submitted by the counsel for the petitioner that identical petitions have already been disposed of by the Co-ordinate Bench of this Court by order dated 5.9.2018 passed in W.P. No.20650/2018, relevant portion whereof reads as under:

> "The law in regard to the benefits flowing from an order of classification is now settled in view of the decision of Apex Court in the case of **Ram Naresh Rawat Vs. Ashwini Ray reported in 2017 (Vol 3) SCC 436,** relevant extract of which is reproduced below for convenience and ready reference:
>
> 4.....The precise submission is that once they are conferred the status of permanent employee by the court and it is also categorically held that they are entitled to regular pay attached to the said post, not only the pay should be fixed in the regular pay-scale, the petitioners would also be entitled to the increments and other emoluments attached to the

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said post.

18. Insofar as petitioners before us are concerned they have been classified as 'permanent'. For this reason, we advert to the core issue, which would determine the fate of these cases, viz., whether these employees can be treated as 'regular' employees in view of the aforesaid classification? In other words, with their classification as 'permanent', do they stand regularized in service?

26. From the aforesaid, it follows that though a 'permanent employee' has right to receive pay in the graded pay-scale, at the same time, he would be getting only minimum of the said pay-scale with no increments. It is only the regularization in service which would entail grant of increments etc. in the pay scale.

27. In view of the aforesaid, we do not find any substance in the contentions raised by the petitioners in these contempt petitions. We are conscious of the fact that in some cases, on earlier occasions, the State Government while fixing the pay scale, granted increments as well. However, if some persons are given the benefit wrongly, that cannot form the basis of claiming the same relief. It is trite that right to equality under Article 14 is not in negative terms (See Indian Council of Agricultural Research & Anr. v. T.K. Suryanarayan & Ors.9).

28. These contempt petitions are, accordingly, dismissed".

4. In view of above, it is directed that in case it is found that the classification of the petitioner is intact, the petitioner shall be paid minimum of the pay scale admissible to the post on which he has been classified as permanent employee without any increment. If any arrears are worked out, the same shall be paid as expeditiously as possible preferably within a period of

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three months.

5. With the aforesaid directions, the instant petition stands **disposed off.**

6. E-copy/Certified copy as per rules/directions.

(ANAND PATHAK)
JUDGE

Ashish*

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