

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4325 of 2020**

- Yamini Kaushal W/o Late Shri Satish Kumar Aged About 31 Years Posted As Asi (M) In The Office Of S.P. (Radio), Zone Bhilai, District Durg Chhattisgarh, R/o Maroda Sector, Near Maitri Garden, Bhilai, District Durg Chhattisgarh.---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Finance Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, District Raipur Chhattisgarh.,
2. Secretary Department Of Home, Mahanadi Bhawan, Mantralaya, Atal Nagar, District Raipur Chhattisgarh.,
3. Director General Of Police Police Headquarters, Block No. 4 Sector -19, Near Indrawati Bhawan, Atal Nagar, District Raipur Chhattisgarh.,
4. Superintendent Of Police (Radio) Zone Bhilai, District Durg Chhattisgarh.,
5. Joint Director (Treasury, Accounts And Pension) Durg Division, District Durg Chhattisgarh., District : ---- **Respondents**

For Petitioner	:	Mrs.Naushina Afrin Ali, Advocate
For State	:	Ms. Richa Shukla, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****4-11-2020**

1. Heard.
2. Learned counsel for the petitioner would submit that the issue in this case pertains to grant of ad hoc pay increase of Rs.60/-

which was made admissible to the Ministerial employees of Home Department by order passed by the erstwhile unified State of Madhya Pradesh on 28.08.2000 and both the petitioners are the employees of Home Department. He would further submit that this issue has been decided by this Court in WPS No.4523 of 2014 & other connected matters by order dated 03.07.2015 and the same relief may be granted in this petition also.

3. This Court on 03.07.2015 in WPS No.4523 of 2014 & other connected matters has passed the following order:-

“Heard learned counsel for the parties.

1. In this batch of writ petitions preferred by the Ministerial employees of the Home Department of the State of Chhattisgarh, prayer has been made to grant them similar relief as has been granted in favour of the petitioners in W.P.(S) No.4563 of 2006 (**Abdul Nawab Khan and others vs. The State of Chhattisgarh and others**) and other connected matters, whose petitions were decided on 07.05.2009.

2. The issue pertains to grant of ad hoc pay increase of Rs.50/-, Rs.60/- & Rs.70/-, which was made admissible to the Ministerial employees of the Home Department by order passed by the erstwhile unified State of Madhya Pradesh on 28.08.2000. The benefit flowing from the said order was paid to the employees, however, by issuing the order dated 29.07.2006, the payment already made to the petitioners as well as pay scale granted to them were sought to be reduced. This gave rise to **Abdul Nawab Khan** (supra), in which, the writ Court passed the following order :

10. Applying the well settled principles of law to the facts of the present case and for the reasons mentioned hereinabove, the petitions are accordingly allowed in the terms of the order passed in **Vidyadhar Tiwari** (supra) i.e., the impugned order dated 29-7-2006 is hereby quashed. The amount, if any, so deducted be paid to the petitioners with simple interest. However, liberty is

reserved to the respondents, if so advised, to take appropriate steps after complying with the principles of natural justice in accordance with Rule 65 of the Chhattisgarh Civil Services (Pension) Rules, 1976. No order as to costs. Rule is made absolute.

3. Feeling aggrieved, the State Government preferred Review Petition No.57 of 2010 (**State of Chhattisgarh & others v. Smt. Raj Bai Bhargav & others**) and other connected matters, wherein, the following order was passed :

1. The applicants seek review of the order dated 7.5.2009 passed in WP (S) No.4563/2006 (Abdul Nawab Khan & Others v. State of Chhattisgarh & Others) and other connected matters, on the ground that the respondents (writ petitioners therein) are approaching the Government for fixation of their pay scale.

2. On perusal of the judgment and order dated 7.5.2009, which is sought to be reviewed, there is no direction for fixation of pay scale, as the said issue was neither raised nor argued at the time of hearing of the writ petition, though a pleading was made in the writ petition. Thus, without pressing the issue as the same was given up during the argument, no decision on the question of fixation of pay was taken and no direction has been issued.

3. The judgment and order dated 7.5.2009 is clear and does not admit of any ambiguity and further, not capable of any other explanation or meaning.

4. In view of the above, all the above review petitions are disposed of.

4. The petitioners of the writ petitions preferred Writ Appeal No.426 of 2011 (**Smt. Raj Bai Bhargav and others vs. The State of Chhattisgarh and others**) challenging the order passed by the Review Court. The writ appeals were allowed and the order passed while exercising the review jurisdiction were set aside.

Meaning thereby that the order passed by the writ Court in **Abdul Nawab Khan** (supra) remained intact. The State Government, thereafter, preferred Special Leave to Petition (Civil) No.13274 of 2013 (**State of Chhattisgarh & others v. Raj Bai Bhargav & others**) challenging the order passed in Writ Appeal and the said SLP was also dismissed. Once again the order passed by the Writ Court in **Abdul Nawab Khan** (supra) remained intact.

5. Several other employees like the present batch of petitions belonging to the Ministerial Cadre of the Home Department started preferring writ petitions claiming similar benefit as has been made admissible to the petitioners of **Abdul Nawab Khan** (Supra). These petitions came to be filed because by order dated 03.12.2013 the Home Department issued instructions to the Police Headquarter that only such employees would get the benefit in whose favour the High Court has passed the orders.

6. Learned counsel for the petitioner would submit that the petitioners being similarly placed, they are entitled to similar benefit.

7. Shri Bhaduri, learned counsel appearing for the State would submit that the petition not only suffers from delay and latches, but the petitioners are not identical and similarly placed, therefore, they are not entitled for any relief. Shri Bhaduri would further submit that firstly the circular dated 28.08.2000 stood withdrawn by the State of Chhattisgarh on 23.08.2001 and before that the Police Headquarter Madhya Pradesh withdrew the same on 12.02.2001, therefore, the petitioners are not entitled for any relief.

8. According to Shri Bhaduri, quashment of the order dated 29.07.2006 would in no way effect the State Government's earlier circular dated 25.03.2006, therefore, the petitioners are not entitled for any relief. In the alternative, Shri Bhaduri would submit that taking the benefit of similar order such persons who have retired long back and even the legal heirs of the deceased employees as well as fresh recruits who have joined in the Ministerial Cadre few months or few years back have started preferring writ petitions unnecessarily burdening the exchequer and the authorities fearing contempt jurisdiction of this Court are enlarging the benefit even to those persons who are not entitled for the benefit.

9. Shri Bhaduri would also submit that although the order dated 28.09.2013 was issued by the Director

General of Police, but since the matter relates to grant of pay scale, arrears etc. the concurrence of the Finance Department would be necessary, therefore, the State may be permitted to examine the issue as to whether or not the case of the petitioners are similar to the case of the **Abdul Nawab Khan** (supra) in respect of whom the matter has attained finality. Learned counsel would fairly submit that in the event the cases of the petitioners are similar to **Abdul Nawab Khan** (supra), they would be entitled to such benefits available to them in law, however, the scrutiny has to be made at the appropriate level involving the Finance Department of the State Government.

10. In view of what has been urged by the learned counsel appearing for both the parties, all the writ petitions are disposed of in the following terms.

- The Department of Home, Government of Chhattisgarh shall constitute a committee consisting of senior IPC Officers not below the rank of ADGP and a senior officer of the Finance Department not below the rank of Additional Secretary.
- The petitioners shall submit a representation before the said committee within a period of one month from today.
- The committee shall examine the issue as to whether the respective cases of the petitioners are similar to **Abdul Nawab Khan** (Supra). If the petitioners are similar to those petitioners, they shall be entitled to all such benefits which are admissible to those petitioners on the subject issue.”

4. Learned State counsel does not dispute the fact brought to the notice of the Court and the earlier judgment placed by the petitioner.
5. It is ordered accordingly. Since no objection has been made by the State counsel, therefore, the ratio laid down in the case supra shall also govern the cause of lis of this case and will have the same effect and operation. Thereby the petitioners shall also be governed by the order dated 03.07.2015 passed

in WPS No.4523 of 2014 & other connected matters and the benefit be granted to them accordingly.

6. With such observation, the writ petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Raju