IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

ON THE 19th OF JANUARY, 2024

WRIT PETITION No. 1467 of 2024

BETWEEN:-

1. **KISHAN LAL S/O SHRI HALKURAM, AGED 54 YEARS, OCCUPATION: SERVICE POSTED IN OFFICE OF EE PWD SUB DIVISION DISTRICT GUNA MP (MADHYA PRADESH)**

2. **RAMNARAYAN S/O HRI PAHALWAN SINGH, AGED ABOUT 53 YEARS, OCCUPATION: SERVICE POSTED IN OFFICE OF E.E. PWD, SUB DIVISION GUNA DISTRICT GUNA GUNA (MADHYA PRADESH)**

3. **BHAGIRATH HARIJAN S/O SHRI GANESHA, AGED 56 YEARS, OCCUPATION: SERVICE POSTED IN OFFICE OF E.E. PWD, SUB DIVISION GUNA DISTRICT GUNA (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI DHARMENDRA NAYAK WITH SHRI LOKENDRA SHARMA-ADVOCATE)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH ITS PRINCIPAL SECRETARY MINISTRY OF PUBLIC WORKS DEPARTMENT VALLABH BHAWAN BHOPAL MP (MADHYA PRADESH)**

2. **THE ENGINEER IN CHIEF PUBLIC WORKS DEPARTMENT SATPURA BHAWAN BHOPAL (MADHYA PRADESH)**

3. **THE CHIEF ENG. PUBLIC WORKS DEPARTMENT GUNA DIVISION DISTRICT GUNA (MADHYA PRADESH)**

4. **THE SUUPERITENDENT ENGINEER PUBLIC WORKS DEPARTMENT DIVISION GUNA DISTRICT GUNA (MADHYA PRADESH)**

Signature Not Verified
Signed by: VISHAL UPADHYAY
Signing time: 19-01-2024 06:21:47 PM

5. THE EXEUTIVE ENGINEER PUBLIC WORKS DEPARTMENT DIVISION GUNA DISTRICT GUNA (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI RAVINDRA DIXIT- GOVERNMENT ADVOCATE FOR RESPONDENT/STATE)

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

ORDER

1. Heard on I.A. No.464/2024 which is an application for ignoring any type of default.

2. On due consideration and looking to the contents of the application, I.A. No.464/2024 is allowed and default, if any, is ignored because of the fact that petition is being disposed of finally.

3. The present petition filed under Article 226 of the Constitution preferred by the petitioners seeking following reliefs:-

> *"(i) That, a direction may kindly be given to the respondents to give the benefit of regular/minimum pay scale of the post on which the petitioners were working and classified as permanent employees vide order annnexure P/1 series and pay the difference of arrears on fixation of pay from the date of classification along with interest at the rate of 18% p.a. as per the law laid down by Hon'ble Supreme Court in the case of Ramnaresh Rawat (Supra);*
>
> *(ii) That, the respondents may kindly be directed to regularize the services of hte petitioner and make the menmber of GPF;*
>
> *(iii) Cost of this petition may kindly be awarded; and*
>
> *(iv) Any other relief, which this Hon'ble Court deem fit in the facts and circumstances of the case, may kindly be granted to the petitioner."*

4 . Petitioners who happen to be daily rated employees submit that

Signature Not Verified
Signed by: VISHAL UPADHYAY
Signing time: 15-01-2024 06:21:47 PM

despite having been classified as a permanent employee, no benefit of regular pay scale has been extended to them.

5. It is submitted by the counsel for the petitioners 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:*
>
> *1. 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 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.*

Signature Not Verified
Signed by: VISHAL UPADHYAY
Signing time: 15-01-2024 06:21:47 PM

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".

6. In view of the above, it is directed that in case, it is found that the classification of the petitioners is intact, the petitioners shall be paid minimum of the pay scale admissible to the post on which they have 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 three months. If case of petitioners fails then, case shall be decided by passing a reasoned order under due intimation to petitioners.

7. With the aforesaid directions, the instant petition stands **disposed of**.

(ANAND PATHAK)
JUDGE

Vishal

Signature Not Verified
Signed by: VISHAL UPADHYAY
Signing time: 15-01-2024 06:21:47 PM