



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 24th OF OCTOBER, 2024

WRIT PETITION No. 2382 of 2006

CHIEF MUNICIPAL OFFICER

Versus

LAXMI NARAYAN AND OTHERS

Appearance:

Shri Ankit Chopra – Advocate for petitioner.

Shri Pravesh Naveriya – Advocate for respondents.

ORDER

This petition under Article 226 of Constitution of India has been filed seeking following relief(s):-

“1. This Hon'ble Court may kindly be pleased to call for the entire record pertaining to instant subject matter for its kind perusal.

2. This Hon'ble Court may kindly be pleased to issue a writ in the nature of certiorari quashing the order passed dt.29.10.2005 in C.A.No.74/MPIR/2004 passed by learned Industrial Court, Bhopal and further be pleased to uphold the order of learned Labour Court in the interest of justice.

3. Court Any other relief which this Hon'ble deemed fit in may circumstance of the case. the facts and

4. Cost of the petition.”

2. This petition was allowed by order dated 22.06.2023 and the order dated 29.10.2005 passed by Industrial Tribunal, Bhopal in C.A.No.74/MPIR/2004 was set aside.



3. Being aggrieved by the said order, the workman preferred W.A.No.1221/2023. The said writ appeal was allowed and by order dated 14.10.2024, the matter was remanded back with the following observation:-

“5. Indisputably, what has been directed by the learned Tribunal is for classification of the services of the appellants, which is provided under the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 and the Rules framed thereunder known as M.P. Industrial Employment (Standing Orders) Rules, 1963. Therefore, in our considered view, the finding arrived at by the learned Single Judge with regard to treating the direction given by the learned Tribunal as direction for regularization of the appellants, may not be correct.”

3. Accordingly, the writ petition is heard afresh.

4. The workman had filed an application under Section 31 read with Section 61 of M.P. Industrial Relations Act, 1960 and prayed for following relief :-

“अतः माननीय न्यायालय से प्रार्थना है कि अनावेदकगणों को निर्देशित किया जावे कि वे आवेदकगण जिस पद पर कार्यरत हैं उस पद पर नियमित करें तथा आवेदकगण की सेवाएं पी.आई.सी. की बैठक दिनांक 2/2/02 के आधार पर समाप्त न की जावे साथ ही अन्य सहायता जो माननीय न्यायालय उचित समझे वह भी आवेदकगण को अनावेदकगणों से दिलाई जावे।”

5. Thus, it is clear that the workman had only prayed for regularization and not for classification. The Labour Court also tried the case in the light of relief claimed by the workman in his claim i.e. regularization. However, the Industrial Court, Bench Bhopal while deciding the appeal by order dated 29.10.2005 passed in C.A.No.74/MPIR/2004 held that the workman is entitled for



classification with regular basic pay-scale and arrears. Admittedly, the case was never filed for classification and in fact the Industrial Court should not have granted the relief, which was never prayed by the workman and which was never contested by the parties before the Labour Court. There is a basic difference between regularization and classification.

6. Furthermore, in the light of judgment passed by the Supreme Court in the case of **Ram Naresh Rawat v. Ashwini Ray and others**, reported in **(2017) 3 SCC 436**, a classified employee is only entitled for minimum of the basic pay without any increment, therefore the direction given by the Industrial Court to grant regular pay-scale with arrear was also contrary to the judgment passed by the Supreme Court in the case of **Ram Naresh Rawat (supra)**.

7. Since, the case was never tried for classification, therefore a prejudice has been caused to the petitioner because the petitioner has been taken by surprise and relief which was never prayed for was granted by the Industrial Court.

8. Under these circumstances, this Court is of considered opinion that in absence of claim for classification, the Industrial Court should not have granted the relief of classification. Under such circumstances, the order dated 29.10.2005 passed by Industrial Court, Bench Bhopal in C.A.No.74/MPIR/2004 is hereby **set aside**.

10. Now the only question for consideration is as to whether the workman can be granted liberty to amend the statement of claim by incorporating alternative prayer for classification or not ?

11. The prayer for regularization was already rejected by the Labour



Court and the said finding was never challenged by the workman before the Industrial Court. In view of the findings recorded by the Industrial Court that the workman is still working, it would be too harsh for the workman in case, if the matter is not remanded back with liberty to the workman that if he so desires then he can amend his statement of claim by incorporating the relief for classification.

12. Accordingly, the order dated 31.01.2004 passed by Labour Court, Betul in Case No.7/2002 M.P.I.R. Act is hereby **set aside** and the matter is remanded back to Labour Court, Betul.

13. The parties are directed to appear before the Labour Court, Betul on **28.11.2024**.

14. On the said date, if any application for amendment in the statement of claim is filed by the workman, then it shall be allowed and the petitioner shall be granted liberty to file its written statement.

15. It is made clear that in case, if no application for amendment in statement of claim is filed by the workman on the said date, then it shall be presumed that petitioner does not wish to seek a prayer for classification and the liberty granted by this Court to move an application for amendment in the statement of claim shall automatically stand withdrawn, and the order dated 31.01.2004 passed by Labour Court shall automatically stand revived.

16. With aforesaid liberty, the petition is finally **disposed of**.

(G.S. AHLUWALIA)
JUDGE