

IN THE HIGH COURT OF JUDICATURE AT JABALPUR

WRIT PETITION NO. 4946 /1998

(UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA)

PETITIONER:

Somvir Singh S/o Shri Bhup Singh, Aged about 27 years,
C/o Shri R.P. Tamoli,
Karbala Road, Kashyap Colony,
BILASPUR (MP)

- VERSUS -

RESPONDENTS:

1. National Fertilisers Limited,
A-11, Sector 24, NOIDA 201 301
District : Gautam Buddh
Nagar (UP) Through it's Chairman
2. The Deputy Manager (P & IR)
National Fertilisers Limited,
A-11, Sector 24, NOIDA 201 301
District : Gautam Buddh
Nagar (UP)
3. The Area Manager,
National Fertilisers Limited,
Karbala Road, Kashyap Colony
BILASPUR (MP)

WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

आदेश पत्रक

W. P. No. 4946/98

भाषा कर्मक

पृष्ठ 200

विकल्प

आदेश का दिनांक और देश के अधिकार अधिकारी	आदेश के अनुसार अधिकारी	कार्यालय में भाषा में दिनांक और देश के अधिकार अधिकारी
22.2.2002	<p>Heard Shri Raj Kumar Gupta, learned counsel for the petitioner and Shri P.S.Koshy, learned counsel for the respondents.</p> <p>2. The petitioner has in this petition sought for issuance of a direction to the respondents to pay the salary of regular pay-scale applicable to him after deducting the fixed amount being paid to him, arrears of salary and other monetary benefits from the date of initial appointment vide order Annexure-P/1 along with interest, increments, etc.</p> <p>3. Learned counsel for the petitioner has produced an order passed by the Madhya Pradesh High Court, Indore Bench in writ petition No.568 of 1995 disposed of on 29.9.1996. It is not in dispute that the facts of the present petition and the facts in the aforesaid case are similar. The relief claimed by the petitioner in the aforesaid writ petition and the prayer in the present petition are also similar.</p> <p>4. The learned counsel for the respondents relied upon the judgment of the Delhi High Court in <u>Prem Kumar and others v. Union of India and others</u> (Civil Writ Petition No.3056 of 1996) and submitted</p>	

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आदेश पत्रके

मामला क्रमांक

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी सजिस्टार के अन्तिम आदेश
	<p style="text-align: center;">-2-</p> <p>that the Delhi High Court did not subscribe to the view taken by the M.P. High Court, Indore Bench in <u>Rajesh Kumar Bharadwaj v. The National Fertilizers Limited</u> (W.P.No. 568^o of 1995) and, therefore, requested me to rely upon the same.</p> <p>5. In <u>Rajesh Kumar Bharadwaj's case</u> before the M.P. High Court, the petitioner was appointed after calling for the interview for appointment to different posts. The petitioner in the said case submitted his application for the post of Junior Field Assistant. He was appointed to the said post in the pay scale of Rs.1350-44-1525-52-1734 plus other allowances as admissible. The said appointment was only for six months to be confirmed after watching the performance during six months. The petitioner was not given the full pay and all other allowances and, therefore, he filed the writ petition for issue of a direction to the respondents therein to pay all the allowances in terms of the appointment order treating him to be appointed on regular basis. The Court has observed in the said case that the respondents therein had failed to</p>	

[10] दिनांक

आदेश पत्रक

मामला क्रमांक सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>-3-</p> <p>convince the Court that initial appointment of the petitioner was made in violation of any rules or regulation and allowed the writ petition filed by the petitioner and directed the respondents therein to regularise the petitioner and to pay him all monetary benefits as per the appointment order given to him. This order of the M.P. High Court was confirmed by the Supreme Court by dismissing the S.L.P. filed against the said judgment.</p> <p>6. The Delhi High Court in <u>Prem Kumar and others</u> case has observed thus :</p> <p>"....In those cases, the parties proceeded on the basis as to whether the employees should have been confirmed upon expiry of the period of probation. The question of confirmation of an employee on the expiry of the period of probation or within a reasonable period arises, provided an appointment is made on a regular basis. When the appointment itself is illegal, the same was a nullity and thus the question of confirmation of their services on expiry of the period of probation would not arise. We, with great respect, do not subscribe to the said view"</p>	

[पीछे देखिये]

आदेश का
दिनांक और
स्थान

आदेशकर्ता का नाम

आदेश प्राप्त करने वाले का नाम

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7. The Delhi High Court appears to have

proceeded on the basis that the appointment of

the petitioner in Rajesh Kumar's case itself was

illegal and the same was a nullity and, therefore,

the question of confirmation of the services on the

expiry of the period of probation would not arise.

In Rajesh Kumar's case the petitioner was appointed

after calling for applications for appointment to

a clear vacancy of regular post and the appointment

was not made in violation of any rules or regulations.

Therefore, I am unable to agree with the learned

counsel for the respondents.

8. In view of the judgment of the M.P. High Court

Indore Bench, I am of the opinion that this petition

has to be disposed of in terms of the order passed

by the M.P. High Court in the aforesaid case. Accord-

ingly, this petition is allowed with costs. I direct

the respondents to pay the petitioner salary on

regular pay scale applicable to him. The petitioner

is also entitled to arrears of salary including yearly

increments and all other monetary benefits from the

आदेश प्राप्त

आदेश का मालिक

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XI-HC-22

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आदेश पत्रक

भाषा कर्मिक

पृष्ठ 200

दिनांक

आदेश का
दिनांक आदेश
कर्मिक पत्रक

आदेश व कर्मिक पत्रक

आदेश पत्रक आदेश
कर्मिक पत्रक आदेश

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date of his initial appointment vide Annexure-P/1
after deducting the fixed amount already paid
to him. The petitioner is also entitled to costs
of Rs. 2000/- to be paid by the respondents.

Sd/-
Chief Justice