

The High Court Of Madhya Pradesh**Conc. No. 991/2015***(PATIRAM GURJAR Vs SHRI ASHWANI RAI)***Gwalior, Dated : 30-04-2019**

Shri B.P. Singh, learned counsel for the petitioner.

Shri Om Prakash Meena, learned counsel for respondent
No.4.

The order whose non compliance is alleged is dated 14/12/2011 passed in W.P. No. 677/2010 wherein an earlier order passed on 14/12/2011 in W.P. No. 6515/2011 was relied upon.

The efficacy and applicability of the said order passed in Suresh Sharma's case has lost it's precedential value in terms of the common order passed by Division Bench of this Court in R.P. No. 264/2017 State of M.P. Vs. Rajendra Kumar Jain filed by the State, alongwith bunch of petitions, which were allowed.

However, the issue of pecuniary entitlement to a daily wager, who has since been declared a permanent employee by way of classification, is no more res integra in view of the decision of the apex court in **Ram Naresh Rawat vs. Ashwini Ray & Others:[(2017) 3 SCC 436]** relevant portion of the decision reproduced below for ready reference and convenience :-

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 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 regularisation in service which would entail grant of increments etc. in the payscale.

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.

Accordingly, Rule Nisi is dropped and direction is issued to the respondents to grant the benefit, if admissible to the petitioner flowing out of the decision of **Ram Naresh (supra)** or else pass speaking order communicating the reasons for denial to the petitioner within two months from the date of this order.

Consequently, this petition stands disposed of.



PRINCEE BARAIYA
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(SHEEL NAGU)
Judge