[2025] 2 S.C.R. 252 : 2025 INSC 136

Rakesh Kumar Charmakar & Ors.
v.
The State of Madhya Pradesh & Ors.

(Civil Appeal No(s). 1303-1304 of 2025)

31 January 2025

[Vikram Nath* and Prasanna B. Varale, JJ.]

Issue for Consideration

Whether the appellants were entitled to regular pay scale in light of the circular dated 10.05.1984 issued by the State.

Headnotes†

Service Law – Pay-scale – Appointment as temporary employees against vacant and sanctioned posts – Entitlement to regular pay – Issuance of circular by the Department conferring the benefit of revised pay-scale to employees completing three years after initially being recruited by the Selection Committee at district level and appointed by Collector as temporary employees on fixed wages – Purpose was making provision for temporary employees to avail benefit of regular pay-scale – Department later issued circular that candidates appointed on regular posts under the Special Recruitment Drive would be paid regular pay-scale of the concerned post – Appellants appointed under Special Recruitment Drive, against the vacant posts of part time Swachchkar at rates prescribed by the Collector – As regards, some of the part time sweepers appointed under Special Recruitment Drive, the High Court in *Ram Naresh Prajapati's* case extended the benefit of regular pay-scale to the temporary employees appointed under special recruitment drive by Collector's order, once they completed three years time period after appointment – Appellants submitted representations before the Competent Authority for grant of regular pay-scale in light of *Ram Naresh Prajapati's* case, which were rejected – Writ petition thereagainst allowed by the Single Judge of the High Court, however, the Division Bench set aside the order – Correctness:

* Author

Held: Appellants are similarly situated as the petitioners in *Ram Naresh Prajapati's* case – Petitioners in *Ram Naresh Prajapati's* case were also appointed under Special Recruitment Drive, against the vacant posts, on temporary basis – Only factual distinction upheld by the Division Bench in the impugned order, is the subsequent appointment of those petitioners on sanctioned posts of Attendant, Bull-Attendant, Servant, etc. – This factual difference not enough to conclude that appellants are differently situated from *Ram Naresh Prajapati's* case, because the appellants have sufficiently proven that they were employed on regular and sanctioned posts by their initial appointment orders – Appellants fulfil all the conditions stipulated in the Circular to grant revised pay-scale – Appellants were appointed on regular posts even though they were temporary – Provisions of the 1979 Rules and the Circular dated 10.05.1984 both fulfilled by the appellants and thus, entitled for regular pay scale – Division Bench of High Court erred in distinguishing the case of *Ram Naresh Prajapati's* case from the present appeals – Additionally, Circular dated 07.10.2016 extended the benefit of regular pay-scale to daily wagers – It would be unjust, unfair and arbitrary if such benefit is not extended to the appellants who were appointed as temporary employees against vacant and sanctioned posts – Even if the State denies the benefit of regular pay-scale after completing three years, the appellants shall be benefitted from this Circular dated 07.10.2016 as they were appointed initially as daily wagers at Collector's rate – Single Judge of the High Court rightly granted the benefit of regular pay-scale to the appellants – Impugned order of the Division Bench set aside and that of the Single Judge upheld – M.P. Veterinary Department Contingency Paid Employees Recruitment & Conditions of Service Rules, 1979. [Paras 14, 15, 17, 18]

Case Law Cited

Ram Naresh Prajapati & Ors. v. State of M.P, **Writ Appeal No. 197 of 2016 dated 10.12.2021 by the Division Bench of M.P. High Court – approved.**

List of Acts

M.P. Veterinary Department Contingency Paid Employees Recruitment & Conditions of Service Rules, 1979.

List of Keywords

Pay-scale; Temporary employment on regular posts; Entitlement to regular pay; Revised pay-scale; Selection Committee at district level; Temporary employees on fixed wages; Special Recruitment Drive; Vacant posts; Part time sweepers; Ram Naresh Prajapati's case; Sanctioned posts of Attendant, Bull-Attendant, Servant; Temporary employees; Regular posts; Regular Pay; Contingency paid employees recruitment; Part time Swachchkar; Collector's rates; Permanent contingency paid employees; Sanctioned posts.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1303-1304 of 2025

From the Judgment and Order dated 02.12.2019 and 10.12.2021 of the High Court of Madhya Pradesh Principal Seat at Jabalpur in WA No. 1486 of 2019 and RP No. 90 of 2020 respectively

Appearances for Parties

S.K Gangele, Sr. Adv., Ms. Priya Sharma, Arjun Sain, Ms. Sadhana Sandhu AOR, Ms. Shashi Kiran, Advs. for the Appellants.

Ms. Mrinal Gopal Elker, Chinmoy Chaitanya, Advs. for the Respondents.

Judgment / Order of the Supreme Court

Judgment

Vikram Nath, J.

1. Leave granted.

2. These appeals assail the judgement passed by Division Bench of Madhya Pradesh High Court on 02.12.2019 in Writ Appeal No.1486/19 whereby it allowed the appeal filed by Respondent (State of Madhya Pradesh) and held that Appellants are not eligible to get regular pay scale as per circular dated 10.05.1984. Further, the Division Bench distinguished their case from that of **Ram Naresh Prajapati**

& Ors vs State of M.P[1] and denied extending the benefit of regular pay-scale to Appellants on the ground of similar facts. The appeal also assails the order passed by Division Bench on 10.12.2021 in Review Petition No. 90/2020 whereby it dismissed the review filed by the appellants.

3. The brief facts leading to present appeal are summarised as follows:

3.1 On 11.06.1980, in exercise of powers under proviso of Article 309 of the Constitution of India, the Respondent State framed the rules titled "M.P. Veterinary Department Contingency Paid Employees Recruitment & Conditions of Service Rules, 1979" ("1979 Rules"). The M.P. General Administration department issued a circular dated 10.05.1984 (No.192/601/1/S.R.D./84) in reference to recruitment of employees getting salaries from work-charged/contingency fund and in reference to giving them revised pay-scale. Clause 6 of the Circular reads as:

> "Recruitment of the employees of this service will be done by Collector considering them fixed waged employee for initial three years and thereafter temporary employee as per appendix one in revised pay-scale. Such employees appointed in the past, who hold eligibility given in appendix two, will have to appear before the district level committee, however, after being selected, they will be considered member of the service after three years of them joining the service."

3.2 It also stated that employees of this service could be recruited by a Selection Committee at district level. Effectively, the circular conferred the benefit of revised pay-scale to employees completing three years after initially being recruited by the Selection Committee at district level and appointed by Collector as temporary employees on fixed wages.

3.3 Additionally, the circular stated that members who did not receive status of permanent employees by 01.04.1982, would receive status of temporary employee, if they hold prescribed educational qualification and necessary eligibilities, they should also be

1 Writ Appeal No. 197 of 2016

conferred the benefit of revised pay-scale. This helps to clarify the purpose of the Circular as the State is making provision for temporary employees to avail the benefit of regular pay-scale.

3.4 In 1996, the State of MP initiated a Special Recruitment Drive to fill up Class III and Class IV posts lying vacant in various departments, which were reserved for candidates from Scheduled Castes, Scheduled Tribes and Other Backward Classes. A Selection Committee was constituted. Appellant No.6 Ramesh Prasad Prajapati was appointed by order dated 09.12.1996 under the special recruitment drive, issued by the Deputy Director, Veterinary Hospital as per the selection list sent by the office of Collector. The order stated that Appellant No.6 along with four others was appointed temporarily on daily wage rate prescribed by Collector.

3.5 On 14.09.1998, MP General Administration department issued a circular stating that candidates appointed on regular posts under the Special Recruitment Drive would be paid regular pay-scale of the concerned post.

3.6 Since certain posts were still lying vacant, on 30.07.2005, the MP General Administration Department extended the time limit of Special Recruitment Drive for filling up the backlog posts of Scheduled Castes, Scheduled Tribes and Other Backward Classes, from 31.07.2005 to 31.12.2005. Earlier, two memorandums were issued on 19.02.2002 and 24.03.2005 elaborating the guidelines for recruitment.

3.7 By the order of the Deputy Director, Veterinary Services, Umaria dated 03.12.2005, a Selection Committee of four officers was constituted for fulfilment of backlog posts of part time Swachchkar, following the direction issued by the Collector for appointment under Special Drive. The Selection Committee was constituted as follows: The representative of Collector to be the Chairman, Deputy Director Veterinary Services Umaria- to be the Secretary (Member), Project Administrator BAIGA Development Authority as Member and District Employment Officer as Member.

3.8 By letter dated 15.12.2005, Deputy Director Veterinary Health Services, District Umaria informed the District Employment Officer that a total of eight posts of part time sweeper were

vacant in the District. The eligible candidates from Scheduled Caste and Other Backward Classes category registered in District Employment Office were called for interview for selection.

3.9 By the order of Deputy Director, Veterinary Services dated 08.02.2006, nine candidates were appointed on vacant posts of "part time Swachchkar" on the basis of recommendation of the Selection Committee, at rates prescribed by Collector. This list included Appellant No. 1- Rakesh Kumar Charmakar and Appellant No.5-Pardeep Kumar Prajapati. By a similar order dated 24.02.2006, Appellant No. 2-Anand Kumar Patwa was appointed to fill up the sanctioned and vacant post of sweeper. By similar order dated 30.06.2006, six candidates were appointed. This list included Appellant No.3- Anand Singh and Appellant No.4- Ajit Sahu. By order dated 06.02.2007, three candidates were appointed including Appellant No.8- Duryamani Patel and Appellant No.9- Om Prakash Patel. By another order dated 06.02.2007, six candidates were appointed including Appellant no.7- Jhallu Prasad Kol. By above mentioned four orders, total twenty-four candidates were appointed in pursuance to recommendation of Selection Committee with post mentioned as 'Part time Swachchkar' to fill up the backlog posts. All four orders state that the Appellants were appointed temporarily on the ground of recommendation of the Selection Committee, at the rates prescribed by Collector. Thus, all nine petitioners were engaged as Part time Swachchkar in the backlog vacancies in Work Charged Contingency Paid Establishment by orders dated 08.02.2006, 30.06.2006 and 06.02.2007.

4. Some of the part time sweepers including *Ram Naresh Prajapati,* who were appointed under Special Recruitment Drive from 1993 to 1996 filed a petition before High Court for grant of regular pay scale with effect from the date when they completed three years of service in light of circular dated 10.05.1984. The Single Judge by order dated 21.01.2016, allowed the writ petition (W.P. No.9827/2012 titled as *Ram Naresh Prajapati* vs State of MP) holding that it was in accordance with circular dated 10.05.1984 that the petitioners therein get regular pay-scale of sweeper after completing three years of service. The High Court noted that after the initial appointment on part-time basis, the petitioners were again appointed/upgraded as attendant, bull attendant, servant, cattle attendant, watchman and sweeper. They

were appointed against the sanctioned posts. The High Court also relied upon the order passed by the same High Court on 31.07.2012 in Writ Petition No.361/2010 wherein the petitioners were held to be entitled for regular pay-scale in light of circular dated 10.05.1984. Thus, the Single Judge held that petitioners in the writ petition before him were also entitled to the benefit of regular pay-scale.

5. The State of MP filed appeal (Writ Appeal No.197 of 2016) against the order dated 21.01.2016 passed in the petition of Ram Naresh Prajapati. The Division Bench dismissed the appeal by order dated 21.03.2017 and upheld the order of the Single Judge. It noted that petitioners were engaged as part time sweepers on daily wages. Subsequently, they were subjected to scrutiny by the Selection Committee and appointed at Collector's rate by order dated 30.06.2004. It held that under Clause-6 of the circular dated 10.05.1984, if an employee continues to work at Collector's rate for a period of three years, they will be considered a temporary employee and will be entitled to revised pay scale. Thus, it concluded that the view taken by the Single Judge in allowing the writ petition is correct. Effectively, the High Court extended the benefit of regular pay-scale to the temporary employees appointed under special recruitment drive by Collector's order, once they completed three years time period after appointment.

6. The State of MP preferred a Special Leave Petition (Civil) Diary No. 39328/2017 before this Court. By order dated 10.01.2018, this court dismissed the SLP with cost of Rs.1,00,000/- with remarks that State of MP has burdened this Court for absolutely no rhyme or reason and wasting money of the State.

7. Now, coming to the facts of present case, the appellants submitted representations before the Competent Authority for grant of regular pay-scale to the post of sweeper, in pursuance of the order dated 21.01.2016 passed by the High court in W.P.No.9827/2012 in *Ram Naresh Prajapati* vs State of MP. These representations were rejected by the Competent Authority on 15.11.2016.

8. Therefore, on 30.04.2018, the present appellants preferred a Writ Petition before the High Court contending that they are eligible to get regular pay scale under circular dated 10.05.1984. They claimed that they were appointed under special recruitment drive in pursuance to selection by the validly constituted Selection Committee

on a sanctioned post as per the Recruitment Rules. They cannot be denied relief simply because they were designated as part time sweepers. They deserved to be treated as regular employees either through regularisation of their services after their screening before the Selection Committee or declaration as permanent employees. They also relied upon circular dated 07.10.2016 issued by General Administration Department of the State in regard to regularisation of daily wager employees as "permanent employees". The circular mentioned that these employees who are working on daily wage basis since 16.05.2007 and working on 01.09.2016 as well, would be eligible for regularisation as per their seniority and they would be eligible to get benefit of regular pay scale. They stated that as per the definition of permanent contingency paid employees, they have acquired the status of permanent employees and deserve to be given regular pay on completion of three years of service since they have completed more than ten years of service.

9. The State of MP on the other hand contended that no post of part time sweeper exists in the department and appellants were engaged for the necessity of work. Petitioners are not covered under the category of daily wage employees. They were not appointed against any sanctioned post. Further, on the question of similarity with the case of *Ram Naresh Prajapati*, the State submitted that for the petitioners in *Ram Naresh Prajapati*, a Screening Committee was constituted by the State and after the Screening Committee scrutinized the service conditions and eligibility criteria, they were appointed on specific sanctioned posts such as Attendant, Bull Attendant, Servant, etc. Also, the Deputy Director vide communication dt.16.02.2010 recommended in favour of the petitioners. Whereas in the present case, no Screening Committee has been constituted to scrutinise the case of appellants. They are not daily wage employees to be covered in circular dated 07.10.2016. They stand on different footing than that of the petitioner in *Ram Naresh Prajapati*.

10. The Single Judge of the High court allowed the Writ petition by order dated 12.07.2019. It concluded that petitioners were recruited pursuant to Special Recruitment Drive, against the vacant posts. Drawing similarity with the facts in *Ram Naresh Prajapati*, the Single Judge denied the claim of the State that appellants are differently situated than that of the petitioners in *Ram Naresh Prajapati*. It denied the State's argument that Appellants are not entitled to

benefit because they were appointed on temporary/contractual basis. This argument was made by the State in *Ram Naresh Prajapati* as well and the High Court had rejected it. Additionally, it noted that State has extended the benefit of regular pay-scale to daily rated employees by order dated 07.10.2016. It concluded that appellants have successfully established that they are not part time sweepers and they were appointed through selection procedure against vacant posts. Therefore the Single Judge directed the State to grant the benefit of regular pay-scale along with arrears after completion of three years as per circular dated 10.05.1984, holding that the present appellants are similarly situated qua *Ram Naresh Prajapati* and hence entitled to get similar benefits.

11. The State preferred a Writ Appeal registered as W.A.No.1486/2019. The Division Bench by the Impugned order dated 02.12.2019 allowed the appeal, overturning the judgement of Single Judge. It rejected the claim of appellants to get regular pay-scale as per circular dated 10.05.1984. According to it the present case is distinguishable from the facts of *Ram Naresh Prajapati*, because in the case of *Ram Naresh Prajapati*. the petitioners were initially appointed on part time and then upgraded as attendant, bull attendant, cattle attendant, watchman and sweeper between 2003 to 2005 and thereafter on completion of three years of such regular service they were given the benefit whereas the same is not the case with present appellants who have continued as part time Swachchkar. Further, it stated that Appellants do not fulfil the criteria laid down in the circular dated 10.05.1984, hence they are not entitled for regular pay-scale. This judgement of the Division Bench is assailed in the present appeal. Further, the Appellants filed a review petition against this order of the Division Bench. The Review petition was also dismissed by the High court by order dated 17.01.2020. This order has also been assailed in the present appeals.

12. We have heard learned counsel from both sides and perused the record.

13. It is clear that all the nine appellants were appointed under an order issued by Deputy Director of Veterinary Sciences in compliance with direction and order of Collector, on the ground of recommendation of the Selection Committee constituted by Collector, against the vacant posts as part time sweepers at Collector's prescribed

rates. The appointment orders make it clear that appellants were appointed on sanctioned and vacant posts although on temporary basis. Further, the appellants were appointed for posts reserved for Scheduled Castes, Scheduled Tribes and Other Backward Classes under Special Recruitment Drive. This contradicts the argument of the State that appellants were appointed on non-sanctioned posts, only for necessity of work.

14. On the issue of whether present Appellants are similarity situated as the petitioners in *Ram Naresh Prajapati*, we agree with the finding of Single Judge in its order dated 12.07.2019. The petitioners in *Ram Naresh Prajapati* were also appointed under Special Recruitment Drive, against the vacant posts, on temporary basis. The only factual distinction pointed out by the State and upheld by the Division Bench in the impugned order, is the subsequent appointment of those petitioners on sanctioned posts of Attendant, Bull-Attendant, Servant, etc. after the scrutiny by the Committee. The State in its Reply to the Writ Petition before High Court has itself stated that no such Screening Committee has been constituted to scrutinise the eligibility and qualification of the present appellants. The appellants however state that they are ready for such scrutiny if the State directs so. In our considered opinion, this factual difference is not enough to conclude that Appellants are differently situated from *Ram Naresh Prajapati*, because the appellants have sufficiently proven that they were employed on regular and sanctioned posts by their initial appointment orders. They are thus covered under Clause 6 of the Circular dated 10.05.1984 since they have completed three years after being employed as 'temporary' employees on Collector's wages, with recommendation of the District Level Recruitment Committee. It is thus clear that they fulfil all the conditions stipulated in the Circular to grant revised pay-scale. Their designation as 'part-time' sweepers does not affect the validity of their appointment since they were appointed against sanctioned posts nevertheless. Appellants were thus appointed on regular posts even though they were temporary. The provisions of the 1979 Rules and Circular dated 10.05.1984 are both fulfilled by the appellants and thus they are entitled for regular pay-scale. The Division Bench of High Court erred in distinguishing the case of *Ram Naresh Prajapati* from the present appeals.

15. Additionally, the Circular dated 07.10.2016 extended the benefit of regular pay-scale to daily wagers. It would be unjust, unfair and

arbitrary if such benefit is not extended to the appellants who were appointed as temporary employees against vacant and sanctioned posts. Even if the State denies the benefit of regular pay-scale after completing three years, the appellants shall be benefitted from this Circular dated 07.10.2016 as they were appointed initially as daily wagers at Collector's rate.

16. The Appellants herein have been fighting this battle for regular pay-scale since 2016. They have extended their service to the State for substantial years. But more importantly they have proven that their situation is covered under the State issued Circular and Rules. Thus, it confers upon them a legal right to avail regular pay-scale.

17. After considering the facts and circumstances of the case, we are of the opinion that Division Bench erred in setting aside the judgement of the Single Judge of High Court dated 12.07.2019. The Single Judge rightly granted the benefit of regular pay-scale to the appellants.

18. We thus set aside the impugned order of Division Bench dated 02.12.2019 and uphold the order of Single Judge, allowing the writ petition extending the benefit of regular pay-scale to the Appellants.

19. The appeals stand allowed as above.

Result of the case: Appeals allowed.

[†]*Headnotes prepared by:* Nidhi Jain