

IN THE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE

Review Petition No.-

/2024

1. THE STATE OF MADHYA PRADESH, SECRETARY, PUBLIC HEALTH ENGINEERING DEPARTMENT, VALLABH BHAVAN, BHOPAL (MADHYA PRADESH)
2. THE ENGINEER IN CHIEF, PUBLIC HEALTH ENGINEERING DEPARTMENT, JAL BHAWAN, BANGANGA, BHOPAL (MADHYA PRADESH)
3. CHIEF ENGINEER, PUBLIC HEALTH ENGINEERING DEPARTMENT, INDORE ZONE, INDORE (MADHYA PRADESH)
4. EXECUTIVE ENGINEER, PUBLIC HEALTH ENGINEERING DEPARTMENT, DIVISION, INDORE (MADHYA PRADESH)

.....PETITIONERS

Vs.

LAXMIKANT SHRIVASTAV,
AGED ABOUT 59 YEARS,
OCCUPATION: SERVICE, R/O.
E75, LAVEKUSH VIHAR,

SUKHLIYA, INDORE
(MADHYA PRADESH)

....RESPONDENT

Review Petition for reviewing the order dated 22/05/2024
passed in W.P.No.11926/2024 by Hon'ble Single Bench
of this Hon'ble Court comprising of Hon'ble Justice Shri
Pranay Verma Ji

MAY IT PLEASE THIS HON'BLE COURT,

Most humbly and respectfully petitioner submits this petition
as under: -

1. That the respondent is Daily wage employee. He was classified permanent on the post of Muster Clerk by the order dated 19/05/2003 issued by the Executive Engineer P.H.E. Division, Dhar.
2. That, the respondent filed a Writ Petition No 11926/2024, on date 01/05/2024, which is first time after 21 years of his permanent classification order dated 19/05/2003, before this Hon'ble Court, for seeking relief as under: -

(I) That, Petition may kindly be allowed by issuing appropriate writ order or direction by directing respondents to grant arrears of benefit of minimum of

regular pay scale from the date of classification as permanent employee, i.e., 19/5/2003 to present date to the petitioner.

(II) That, any other relief which this Hon'ble Court deems fit in the facts and circumstances of the case may be awarded along with the cost of the petition.

3. That, the aforesaid Writ Petition No. 11926/2024 came on hearing for admission purpose on 22/05/2024 and this Hon'ble court after finding the similarity in the facts of this case with the facts of the case in **Khemraj Khandekar & Ors. (supra)**, was pleased to allow this petition in following terms: -

(III). Accordingly the petition is allowed and the case of the petitioner is directed to be examined by the respondents and necessary order in his favour as prayed by him in this petition be passed and consequential benefits be given to the petitioner within a period of 90

days from the date of receipt of the certified copy of this order

(IV). Petition is accordingly allowed and disposed off.

Copy of the order dated 22/05/2024 passed in WP No 11926/2024 annexed as **Annexure RP-1.**

4. That, the humble petitioners are totally convinced & agree with the part of the decision dated 22/05/2024, which deals with the status and benefit entitlement of respondent. The only grievance of the petitioners is that despite many orders of Hon. Apex Court & Division as well as coordinate benches of this Court, about limiting the duration of payable arrear amount in case of delay caused in filing the first writ petition from the date of cause of action, the respondent has been granted the arrears of minimum of regular pay-scale from the date of classification i.e. 19/5/2003 to till date, even after the delay of 21 years from the date of arise of cause of action i.e. 19/5/2003, in filing this petition.

5. That, it is pertinent to mention here that Hon'ble High Court of M.P. at Jabalpur in a case of a permanently classified Daily wage employee,

pertaining to grant of arrears of minimum of regular pay scale from the date of classification to present date, passed the order dated 11/4/2022 in WP No. 8014/2022 (Suresh Tiwari & others Vs State of MP & others) stating that: -

“The law laid down by the Supreme Court in the case of M.R. Gupta Versus Union of India and Others (1995) 5 SCC 628 provides that the law of limitation will be applicable and the petitioners will not be entitled to claim arrears of salary for which the cause of action arises on every 1st day of the month when their salary becomes due for a period exceeding three years prior to the date of filing of the writ petition

Accordingly, this writ petition can be disposed of modifying the order dated 10.11.2020 passed by the Gwalior Bench of the High Court of Madhya Pradesh in Writ Petition No.16421/2020 (Rakesh Kumar Shrivastava & Others versus State of Madhya Pradesh & Others) to the extent that in case the petitioners' classification is intact then they will be entitled to the minimum of pay scale

admissible to the post on which they are working in the light of the law laid down by the Supreme Court in the case of Ram Naresh Rawat versus Ashwini Ray 2017 (Volume 3) SCC 436 but their arrears will be restricted for a period of three years prior to the date of filing of the present writ petition i.e. three years prior to 1.4.2022 in the light of the law laid down by the Supreme Court in the case of M.R. Gupta Versus Union of India and Others (supra).”

A copy of order dated 11/4/2022 in WP No.8014/2022 (Suresh Tiwari & others Vs State of M.P. & others) is being annexed herewith and marked as **ANNEXURE RP/2**.

6. That, it is further submitted that this Hon'ble Court M.P. at Jabalpur in the similar matter of grant of arrear amount from the date of classification to daily wage employees, in WP No.13892/2022 (Hirdaram Yadav and 10 others Vs State of M.P. and others) Decided on 24.06.2022, WP No.4802/2023 (Srinivas Mishra Vs State of M.P. and others) Decided on 01.03.2023, RP No.343/2024 (State of M.P.