

अतिआवश्यक
तत्काल
समय-सीमा

कार्यालय प्रमुख अभियंता
लोक स्वास्थ्य यांत्रिकी विभाग
जल भवन, बाणगंगा, भोपाल

क्रमांक 8921 / विधि/प्र.अ./लोस्वायांवि./2023
प्रति,

भोपाल, दिनांक 8/6/2023

मुख्य अभियंता,
लोक स्वास्थ्य यांत्रिकी विभाग
परिक्षेत्र भोपाल/इंदौर/जबलपुर/ग्वालियर
(वि./यां.) परिक्षेत्र भोपाल

विषय :- विभाग में कार्यरत कार्यभारित हैंडपंप मैकेनिकों द्वारा, प्रारंभिक नियुक्ति दिनांक से ही वेतनमान रु. 1150-1800/- प्राप्त करने हेतु उच्च न्यायालय के समक्ष दायर किये गये न्यायालयीन प्रकरणों में प्रभावी प्रतिरक्षण हेतु।

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उपरोक्त विषयांतर्गत पूर्व में यह पाया गया था कि विभाग में कार्यरत कार्यभारित स्थापना के हैंडपंप मैकेनिकों को प्रारंभिक नियुक्ति दिनांक से ही नियमित स्थापना के हैंडपंप मैकेनिकों का वेतनमान रु. 1150-1800/- त्रुटिपूर्ण रूप से स्वीकृत किया गया था। कुछ वर्षों उपरांत यह ध्यान में आने पर कि कार्यभारित स्थापना एवं नियमित स्थापना के हैंडपंप मैकेनिकों के वेतनमान अलग-अलग हैं, तथा उनका वेतनमान रु. 950-1530/- है उन्हें प्राप्त हो रहे, गलत वेतनमान को सुधारा गया था, जिससे व्यथित होकर कुछेक कार्यभारित स्थापना के हैंडपंप मैकेनिकों द्वारा राज्य प्रशासनिक अभिकरण के समक्ष प्रकरण दायर किये गये थे, जिसमें उनके पक्ष में निर्णय पारित किया गया था तथा उन्हें पुनः नियमित स्थापना का उच्चतर वेतनमान प्राप्त होने लगा था।

म.प्र.शासन, वित्त विभाग द्वारा अंतिम रूप से वर्ष 2008 में यह स्पष्ट किया गया था कि कार्यभारित हैंडपंप मैकेनिकों और नियमित स्थापना के हैंडपंप मैकेनिकों को दिनांक 01.01.1996 से एक ही वेतनमान प्राप्त होगा। ऐसी स्थिति में प्रमुख अभियंता, कार्यालय द्वारा कार्यभारित हैंडपंप मैकेनिकों के वेतन पुनरीक्षण हेतु वर्ष 2008 एवं 2009 में निर्देश जारी किये गये थे, किंतु इन निर्देशों के पालनार्थ अनेक खंडों में कार्यभारित हैंडपंप मैकेनिकों के वेतन पुनरीक्षित नहीं किये गये थे।

अंतिम रूप से विभाग द्वारा वर्ष 2018 में कार्यभारित हैंडपंप मैकेनिकों के वेतन पुनरीक्षण उपरांत वसूली माफी के आदेश जारी किये गये थे। इन आदेशों के उपरांत अनेक कार्यभारित हैंडपंप मैकेनिकों द्वारा प्रारंभिक नियुक्ति दिनांक से ही नियमित स्थापना के हैंडपंप मैकेनिक के समान वेतनमान रु. 1150-1800/- प्राप्त करने के लिये माननीय उच्च न्यायालय के समक्ष रिट याचिकायें दायर की गई हैं। इन रिट याचिकाओं का उद्देश्य वेतन पुनरीक्षण को ही निरस्त कराना है।

इस संबंध में लेख है कि विभाग में इस प्रकृति का प्रकरण म.प्र. शासन एवं अन्य विरुद्ध अजय सिंह राठौर एवं अन्य जो राज्य प्रशासनिक अभिकरण से उद्भूत होकर माननीय सर्वोच्च न्यायालय नई दिल्ली द्वारा अंतिम रूप से निर्णित है, में अंतिम रूप से अभिनिर्धारित है

कि इन कर्मचारियों की वसूली माफ रहेगी किंतु इन्हें पुनरीक्षित वेतनमान यानि नियमित स्थापना के हैंडपंप मैकेनिक के समान वेतनमान का लाभ दिनांक 01.01.1996 से ही प्राप्त होगा। उपरोक्त न्यायालयीन प्रकरण से संबंधित सभी न्यायालयीन निर्णय आपके सुलभ संदर्भ हेतु संलग्न प्रेषित है। कृपया ध्यान दें माननीय उच्चतम न्यायालय द्वारा यह अभिनिर्धारण इस तथ्य के बावजूद किया है कि कार्यभारित हैंडपंप मैकेनिक कर्मचारियों को नियुक्ति दिनांक से नियमित हैंडपंप मैकेनिक के वेतनमान का लाभ देने के आदेश पूर्व में माननीय राज्य प्रशासनिक अभिकरण द्वारा दिये गये थे, जिन्हें चुनौती नहीं दी जा सकी थी।

उपरोक्त न्याय दृष्टांत के अभाव में अनेक मामलों में माननीय उच्च न्यायालय द्वारा विभाग के विपरीत निर्णय पारित किए गये हैं, तथा कर्मचारियों को नियमित स्थापना के हैंडपंप मैकेनिक का वेतनमान रु. 1150-1800/- प्रारंभिक नियुक्ति दिनांक से ही स्वीकृत करने के आदेश दिये गये हैं। विभाग को ऐसे मामलों में बाध्यता में ऐसी स्वीकृति जारी करनी पड़ती है।

आपको निर्देशित किया जाता है कि आप कृपया यह परीक्षण कर लें कि आपको परिक्षेत्र के अधीनस्थ इस प्रकृति के कितने न्यायालयीन प्रकरण प्रचलन में हैं, तथा उन सभी न्यायालयीन प्रकरणों में इस न्याय दृष्टांत को आवश्यक रूप से माननीय न्यायालय के समक्ष प्रस्तुत करावे। इससे इन प्रकरणों में प्रभावी प्रतिरक्षण के साथ ही विभाग के पक्ष में निर्णय की संभावना निर्मित होगी।

संलग्न:- उपरोक्तानुसार
न्यायालयीन निर्णय

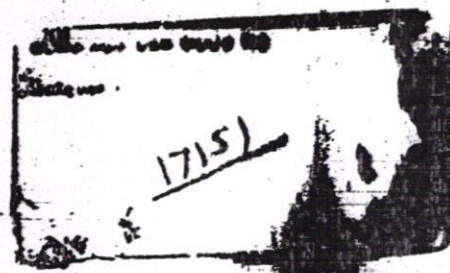
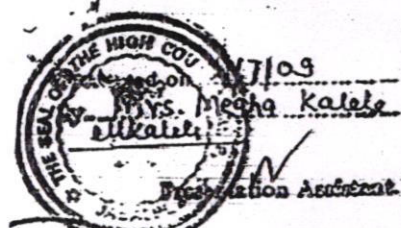
पृ.क्रमांक 8921 / विधि / प्र.अ. / लोस्वायांवि. / 2023
प्रतिलिपि :-

प्रमुख अभियंता
भोपाल, दिनांक 8/6/2023

- (1) अधीक्षण यंत्री, लोक स्वास्थ्य यांत्रिकी मंडल भोपाल की ओर प्रेषित कर लेख है कि आपको "अजय सिंह राठौर" प्रकरण में पारित निर्णय के आधार पर रिव्यू पिटीशन दायर करने के लिये इस कार्यालय के पत्र क. 3902 दिनांक 21.03.2023 द्वारा निर्देशित किया गया था, तथा आदेश क. 44 दिनांक 30.03.2023 के माध्यम से प्रभारी अधिकारी नियुक्त किया गया था। कृपया रिव्यू पिटीशन की प्रति तत्काल इस कार्यालय को भिजवायें।
- (2) कार्यपालन यंत्री, लोक स्वास्थ्य यांत्रिकी खंड----- की ओर प्रेषित कर निर्देशित किया जाता है कि प्रकरण ----- में उपरोक्त न्याय दृष्टांत आवश्यक रूप से प्रस्तुत किया जाना सुनिश्चित करें।

संलग्न:- उपरोक्तानुसार
न्यायालयीन निर्णय

प्रमुख अभियंता
NS

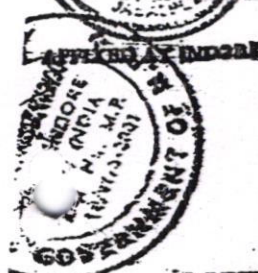


परिशिष्ट - 8

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Indore Bench
WP 4473/2009



IN THE HONBLE HIGH COURT OF
BENCH AT INDORE

W.P.NO. 4473/2009

4595
23/10

PETITIONER:

1. Ajay Singh Rathore
Raghuvanshi
Age: years.
2. Nishikant Rathore
Rampat Singh
Age: 46 years.
3. Sunil Shrivastava
Gayaprasad Shrivastava
Age: 46 years.

All Hand Pump Mechanics,
PHE Division
Address: 154, S. N. Nagar,
Annapurna Mandir, Indore

Versus

RESPONDENTS: 1.

State of Madhya Pradesh
through Secretary, Department
of Public Health Engineering,
Vallabh Bhavan, Bhopal.

2. Engineer-In-Chief,
Public Health Engineering,
Department, Bhopal.
3. Executive Engineer,
Public Health Engineering,
Ujjain

IN THE MATTER OF

PETITION UNDER ARTICLE 226 OF THE

Ajay Singh
Rathore
Vs
State
of
M.P.
2 ors

शक्ति 23/10
Office of the
Associate General
High Court Bench
INDORE

ANNEXURE-C
HIGH COURT OF MADHYA PRADESH
CASE NO. OF 20
ORDER SHEET (CONTINUATION)

DATE & S.
NO. OF THE
ORDER

ORDER

W.P. Nos. 4473/09(s), 4449/09(s), 4457/09(s),
4458/09(s) and 5449/09(s)

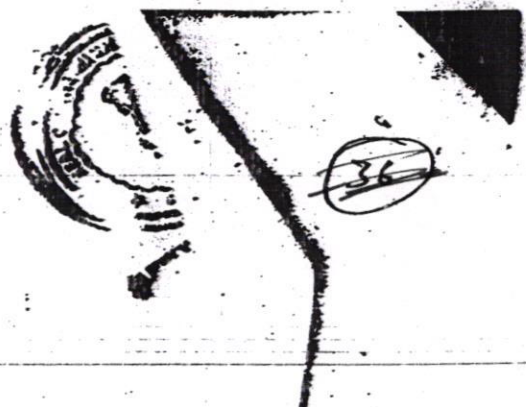
30/07/2010

Mr. S. M. Bapat, learned counsel for the petitioner(s).

Mr. Deepak Rawat, learned GA for the respondent.

The petitioner before this court has filed this present petition being aggrieved by the action of the respondents in initiating recovery against the petitioners. The contention of petitioners is that they were appointed on the post of Handpump Mechanics and were initially granted pay scale of Rs.975 - 1650, but later on an order was passed withdrawing the aforesaid pay scale and it was also directed that the petitioner shall be paid wages as daily wagers on the rate fixed by the Collector. Petitioners have stated that being aggrieved by the order of the authorities an Original Application was preferred before the M.P. State Administrative Tribunal and the same was registered as OA No. 5/94 and the Tribunal after hearing the parties at length in the case of Shantilal Patodiya and ors. Vs. state of M.P. has allowed the original application. Petitioners have further stated that later on a pay scale of Rs.1150 - 1800 was granted to the petitioners and the same was

FREE OF COST



ANNEXURE-C
HIGH COURT OF MADHYA PRADESH

CASE NO. OF 20

ORDER SHEET (CONTINUATION)

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revised as Rs.3500 - 5200. However, respondents have now passed an order as contained in Annexure P/8 dated 11/3/09 wherein it has been stated that pay scale of Rs.1150 - 1800 was wrongly granted to the petitioners. The petitioners grievance is that they were entitled for a revised pay scale of Rs.3500 - 5200 w.e.f. 1/1/96 and even if erroneously they were earlier paid at the scale more than their entitlement, the same cannot be recovered in the light of the judgment delivered in the case of Sahibram Vs. State of Haryana reported in 1995 (1) SCC 18. A reply has been filed on behalf of respondent State and the contention of the respondent State is that the petitioners were initially appointed on the post of Handpump Mechanics and were granted a regular pay scale and the same was withdrawn. An original application was preferred by Handpump Mechanics and the M.P. State Administrative Tribunal while passing an order in OA NO. 5/94 on 3/9/98 has quashed the order of the respondents therein and has held that the petitioners shall be entitled for a pay scale of Rs.965 - 1650. The respondents have also stated that erroneously a higher pay scale of Rs.1150 - 1800 was granted to the petitioners and in fact they were at



FREE OF COST

(37)

ANNEXURE-C
HIGH COURT OF MADHYA PRADESH
CASE NO. OF 20
ORDER SHEET (CONTINUATION)

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entitled for the aforesaid pay scale. The respondents have also admitted that the petitioners are entitled for a revised pay scale of Rs.3500 - 5200 w.e.f. 1/1/96 by virtue of the recommendations of the pay commission and the action of respondents in withdrawing recovery against the petitioners does not warrant any interference.

Heard learned counsel for the parties at length and perused record.

In the present case it has been admitted that the petitioners were appointed in the pay scale of Rs.975 - 1650 and the order passed by the M P State Administrative Tribunal in O.A.No.5/94 also reflects that the petitioners were enjoying the pay scale of Rs. 975 - 1650 at the time of their appointments and the action of the respondents in withdrawing the aforesaid pay scale was held to be bad in law. The petitioners by virtue of the order passed by the Tribunal were entitled for pay scale of Rs.975 - 1650. However, erroneously higher pay scale of Rs. 1150 - 1800 was paid to the petitioner and w.e.f. 1/9/96 the pay scale of Rs.975 - 1650 has been revised to Rs.3500 - 5200 and the respondents have also admitted in the impugned order dated 11/5/09

FREE OF COST



ANNEXURE-C

HIGH COURT OF MADHYA PRADESH

CASE NO. OF 20

ORDER SHEET (CONTINUATION)

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that the petitioners are entitled for the aforesaid pay scale of Rs. 3500 - 5200 and, therefore, this Court is of the considered opinion that the petitioners are certainly entitled for the pay scale of Rs. 3500 - 5200 w.e.f. 1/1/96. So far as the excess amount received by the petitioners on account of wrong fixation is concerned, as the petitioners were not at fault in the matter, the question of recovering the same in the light of judgment delivered in the case of Sahasrath (supra) does not arise.

Resultantly, pay fixation done by the respondents is upheld in the matter. However, the recovery ordered against the petitioners is quashed.

With the aforesaid, the writ petition stands partly allowed. No order as to costs.

(S. C. SHARMA)
JUDGE

(KR)

It be the
purpose of
in the Courts of Law.



AFFIXED AT INDORE

Presented by
Advocate

19.1.2011
V. P. Rathore & A

Reader/Registrar

WRIT APPEAL NO. 68/2011

(Arising out of W.P. No.4473/09(S)
decided 30.07.2010 by the Hon'ble
Single Judge)

**BEFORE HON'BLE THE HIGH COURT OF M.P. BENCH
AT INDORE**

Appellants..... 1/State of M.P. through Secretary,
Department of Public Health
Engineering, Vallabh Bhawan,
Bhopal.

2/Engineer-in-Chief,
Public Health Engineering Deptt.,
Bhopal.

3/ Executive Engineer,
Public Health Engineering, Ujjain.

V/s

Respondent..... 1/ Ajay Singh Rathore s/o
Raghuvarsing Rathore, age 43
years.

2/ Nishikant Rathore s/o
Rampratap Rathore, age 48 years

3/ Sunil Shrivastava s/o
Gayaprasad, Age 48 years,

All Hand Pump Mechanic,
PHE Division Ujjain
Add. 154 Sujama Nagar,
Annapurna Mandir, Indore

**WRIT APPEAL U/S 2(1) OF MADHYA PRADESH UCHHA
NYAYALAYA (KHAND NYAYPITH KO APPEAL)
ADHINIYAM, 2005.**

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ANNEXURE-C

HIGH COURT OF MADHYA PRADESH

CASE NO. OF 20

ORDER SHEET (CONTINUATION)

ORDER

Writ Appeal No. 68 of 2011

18.03.2011

Mr. Anand Prasad, learned Dy. Govt. Advocate for the appellants.

He submitted the petition of admission.

The writ petition was filed under Section 2 (1) of the M.P. Uchhaadaya Adhiniyam (Uchhaadaya Ko Appeal) Adhiniyam, 2007. The appellants have challenged the order dated 30.12.2010 of the learned Single Bench of this Court in Writ Petition No. 100 of 2010.

The appellants had filed a writ petition challenging the action of the respondents in initiating recovery of the excess amount paid to them. The learned Single Judge placing reliance on the judgment of the Supreme Court in the case of *Sandhu Vs. State of Haryana* 1995 Supl. (1) SCC 18 partly allowed the writ petition. Aggrieved the State has filed this writ appeal.

Learned Dy. Govt. Advocate submits that the appellants are not aggrieved by the pay fixation which has been upheld by the learned Single Judge. She however submits that the excess amount paid to the writ petitioners was rightly ordered to be recovered as the same was wrongly paid to them, in the circumstances according to her the learned Single Judge has erred in ordering for

ANNEXURE-C

HIGH COURT OF MADHYA PRADESH

CASE NO. OF 20

ORDER SHEET (CONTINUATION)

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refund of the said amount.

Having considered the submissions made by the learned Dy. Govt. Advocate we find no merit in the same.

Admittedly, the excess amount was not paid to the writ petitioners on account of any fraud or misrepresentation on their part. The Supreme Court in the case of *Shankaran Vs. State of Haryana* 1995 Suppl. (1) SCC 18, *Shyamabai Verma Vs. Union of India* (1994) 2 SCC 521 and in the case of *Col. B.J. Akkara (Retd.) Vs. Govt. of India and ors.* (2006) 11 SCC 709 has held that in the absence of any fraud or misrepresentation on the part of the employee the amount which has wrongly been paid cannot be recovered.

In the circumstances, we find no infirmity in the impugned order passed by the learned Single Judge.

Accordingly, the writ appeal deserves to be and is hereby dismissed.

Sh...
(Shantanu Kemkar)
Judge

Abhay M. Nalk
(Abhay M. Nalk)
Judge

AM.

TRUE COPY
Petitioner
15/11

परिचि 102 - (11)

Presented by
Advocate



(11)

HON'BLE HIGH COURT OF M.P.
BENCH AT INDORE.

WRIT APPEAL NO. 381/2010

1. Ajay Singh Rathore
S/o Shri Raghuvansh Rathore,
Age years
2. Nishikant Rathore
S/o Shri Rampratap Rathore,
Age 47 years,
3. Sunil Shrivastava
S/o Shri Gayaprasad Shrivastava,
Age 47 years,
All Hand Pump Mechanic,
PHE Division Ujjain.

APPELLANTS

VERSUS

1. State of M.P. through Secretary,
Department of Public Health Engineering,
Vallabh Bhawan, Bhopal.
2. Engineer-in-Chief,
Public Health Engineering Department,
Bhopal.
3. Executive Engineer,
Public Health Engineering Department,
Ujjain.

RESPONDENTS

**APPEAL UNDER SECTION 2 OF THE M.P. UCHCH
NYAYALAYA (KHAND. NYAYPEETH KO APPEAL)
ADHINIVAM, 2005 AGAINST THE ORDER DATED
30.07.2010 PASSED BY HON'BLE MR. JUSTICE
S.C. SHARMA, IN WP NO. 4473/09(S).**

ANNEXURE-C

HIGH COURT OF MADHYA PRADESH

CASE NO. _____ Q120

ORDER SHEET (CONTINUATION)

DATE & S.
NO. OF THE
ORDER

ORDER

W.A. No.381 of 2010

15.01.2014

Mr. S.M. Bapat, learned counsel for the appellants.

Mr. Sudarshan Joshi, learned Panel Lawyer for the respondents/State.

With consent heard orally.

This appeal is directed against the order dated 30.07.2010 passed by the learned Single Judge in W.P. No.4473/2009.

According to the appellants (respondents), the entire observations made by the learned Single Judge are in their favour still the writ petition has been 'allowed' instated of ordering it to be 'allowed'.

Learned counsel for the appellants submit that as per the order passed by the learned Single Judge, the appellants-writ petitioners were placed on a pay-scale of Rs.3500-5200/-, in the circumstances, the observation that the pay-fixation was wrong and clearly erroneous.

Having gone through the entire order passed by the Writ Court, we are of the view that it has wrongly been

HIGH COURT OF MADHYA PRADESH

CASE NO. _____ OF 20

ORDER SHEET (CONTINUATION)

DATE &
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mentioned in the order that the pay-fixation was wrong, which may be typographical error. Accordingly, we allow this appeal and modify the order passed by the learned Single Judge to the effect that the words "wrong pay-fixation" mentioned in the operative paragraph as also "partly allowed" are deleted and instead of it, they be treated that "petitioner's pay was correctly fixed and the recovery was wrongly made" and instated of treating the writ petition to be partly allowed, it be treated as allowed.

With the aforesaid modification in the order passed by the learned Single Judge, this writ appeal stands allowed.

(Shantannu Kemkar)
Judge

(J.K. Maheshwari)
Judge

TRUE - COPY

1 of 1

Application No. J623/2014

GA 7B-1282-1M (7B-1A)-25-1,1M,1000

[illegible]



AFFIXED AT INDORE

R.P.No 395/2014.
[Arising out of W.A. No. 381/2010
decided on 15/01/2014.]

BEFORE HON'BLE THE HIGH COURT OF
M. P. BENCH AT INDORE.

APPLICANTS:

1 State of M.P. through
Secretary, Department of
Public Health Engineering,
Vallabh Bhawan, Bhopal
MP.

2. Engineer-in-Chief, Public
Health Engineering
Department, Bhopal MP.

3. Executive Engineer,
Public Health Engineering
Department, Ujjain MP.

VS.
RESPONDENT:

1. Ajay Singh Rathore S/o
Shri Raghuvveersingh
Rathore, Aged: years.

2. Nishikant Rathore S/o Shri
Rampratap Rathore, Aged:
47 years.

3. Sunil Shrivastava, S/o
Shri Gayaprasad
Shrivastava, Aged: 47 years.

All Hand Pump Mechanic
PHF Division, Ujjain

R. P No.395/2014

24.04.2015

Ms. Vinita Phaye, learned Government Advocate for the petitioners – State.

Heard on the question of admission as well as on I.A. No.11119/2014, which is an application for condonation of delay.

Learned counsel for the petitioners submit that on the basis of wrong fixation of pay-scale, the recovery of the order was quashed by the learned Single Judge and against the aforesaid order, writ appeal filed by the State has been dismissed vide order dated 18.02.2011 in W.A. No.68/2011. Thereafter, the writ appeal of the respondents were entertained by the Division Bench of this Court.

Considering the fact that wrong pay fixation was mentioned in the operative paragraph and, therefore, allowed the writ appeal to that extent and directed that appellants' pay was correctly fixed and the recovery was wrongly made. With the aforesaid modification, the writ appeal No.381/2010 was allowed.

In view of the aforesaid, we are of the view that there is no error apparent on the face of the record. No case to review the order dated 15.01.2014 passed in W.A. No.381/2010, as prayed is made out. I.A. No.11119/2014 as well as R. P No.395/2014 are accordingly, dismissed.

(P. K. Jaiswal)
Judge

(T. K. Kaushal)
Judge

gp

ITEM NO. 21

COURT NO. 6

SECTION IVA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

306677

Petition(s) for Special Leave to Appeal (C).....CC No(s).
1172/2016

(Arising out of impugned final judgment and order dated 24/04/2015
in RP No. 395/2014 passed by the High Court of M.P. at Indore)

STATE OF MADHYA PRADESH AND ORS.

Petitioner(s)

VERSUS

AJAY SINGH RATHORE AND ORS.

Respondent(s)

(with appln. (s) for c/delay in filing SLP)

WITH

S.L.P. (C)....CC No. 1291/2016

(With appln. (s) for c/delay in filing SLP and Office Report)

Date : 27/01/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s) Mr. A.K. Srivastava, Sr. Adv.
Mr. Arjun Garg, Adv.
Mr. Manish Yadav, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Mr. A.K. Srivastava, learned senior counsel appearing for the
petitioners, at the very outset submitted that the petitioners are
not aggrieved of that part of the impugned judgment in the review
as well as even the order dated 15.1.2014 passed in Writ Appeal
No.381 of 2010, insofar as it related to the restraint imposed on
the State from effecting any recovery.

Insofar as the other grievance of the petitioners about
fixation of pay, even in the order of the Division Bench dated

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15.1.2014, we find the following directions:

"Having gone through the entire order passed by the Writ Court, we are of the view that it has wrongly been mentioned in the order that the pay-fixation was wrong, which may be typographical error. Accordingly, we allow this appeal and modify the order passed by the learned Single Judge to the effect that the words "wrong pay-fixation" mentioned in the operative paragraph as also "partly allowed" are deleted and instead of it, they be treated that "Petitioner's pay was correctly fixed and the recovery was wrongly made" and instated of treating the Writ Petition to be partly allowed it be treated as allowed."

The Division Bench has made it clear while modifying the directions in the order of the learned Single Judge to the effect that the pay fixation of the respondent/employee was correctly made and that everything was wrong with the recovery, which was not to be made. Inasmuch as the Division Bench as well as the learned Single Judge have consistently held that pay fixation made by the petitioners was correct, we do not find any need or necessity to entertain this special leave petition.

With the above clarification, this special leave petition stand dismissed.

Pending application(s), if any, shall stand disposed of.

(NARENDRA PRASAD)
COURT MASTER

(SHARAD KAPOOR)
COURT MASTER

17-2-16

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परिधि 02 - (18)

(80)

**ARJUN GARG
ADVOCATE- ON-RECORD
SUPREME COURT OF INDIA**

H-35, Lower Ground Floor,
Jangpura Extension,
New Delhi-14

(M) : +91 - 9971796913
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BY EMAIL

17.02.2016

To,

Shri Sunil Kumar Udia,
Executive Engineer,
Department of Public Health Engineering,
Ujjain, M.P.

766
17/2/16

Sub: Special Leave Petition (s) CC No. 1172 of 2016 - in the matter of State of M.P. Vs. Ajay Singh Rathore along with SLP (C) CC No. 1291 of 2016 - State of M.P. Vs. Vikram Singh Malviya

Sir,

1. Kindly refer to the captioned matter wherein you have sought my opinion on the order passed by the Hon'ble Supreme Court on 27.1.2016.
2. The matter pertained to recovery of excess amounts wrongly paid to the Respondent and re-fixation of their pay scale. While appearing for the State, we at the outset submitted that the State is not aggrieved by the part of the order insofar as it relates to restraint imposed on the State from effecting any recovery.
3. However, on the issue of fixation of pay, we submitted that the Ld. Division Bench has committed an error in modifying the order of the Ld. Single Judge. The Hon'ble Supreme Court then noted that the language of Ld. Division Bench's order can also be taken in consistency with the Ld. Single Judge on the issue of pay fixation. Accordingly, the Hon'ble Supreme Court has observed that "....the Division Bench as well as the learned Single Judge have consistently held that pay fixation made by the petitioners was correct...".
4. As such, the Hon'ble Supreme Court has clarified that the pay fixation as done by the State, which was confirmed by Ld. Single Judge has been upheld by the Ld. Division Bench also.

Thanking You,

Yours Sincerely

A

1
**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE MANINDER S. BHATTI

ON THE 18th OF OCTOBER, 2023

WRIT PETITION No. 11476 of 2019

BETWEEN:-

**LALU LAL NANDI S/O LATE SHRI SURYA KUAMR, AGED
ABOUT 52 YEARS, OCCUPATION: TECHNICIAN HAND
PUMP HAND PUMP MECHANIC R/O BANI SAGAR
MOHALLA WARD NO 12 PANNA (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI SAMEER BEOHAR - ADVOCATE)

AND

1. **THE STATE OF M.P. THR. SECRETARY VALLABH
BHAWAN (MADHYA PRADESH)**
2. **ENGINEER IN CHIEF, PUBLIC HEALTH
ENGINEERING DEPARTMENT JAL BHAWAN,
BANGANGA (MADHYA PRADESH)**
3. **SUPERINTENDENT ENGINEER, PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
(MADHYA PRADESH)**
4. **EXECUTIVE ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
(MADHYA PRADESH)**
5. **GENERAL ADMINISTRATIVE DEPARTMENT (PAY
CELL) THROUGH ITS SECRETARY VALLABH
BHAWAN, BHOPAL (MADHYA PRADESH)**
6. **PRINCIPAL SECRETARY, FINANCE DEPARTMENT,
STATE OF MP, VALLABH BHAWAN BHOPAL
(MADHYA PRADESH)**
7. **JOINT DIRECTOR AMOUNTS AND TREASURY
SAGAR-DIVISION (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI MANAS MANI VERMA - GOVT. ADVOCATE)

WRIT PETITION No. 11482 of 2019

BETWEEN:-

KRISHN PAL MAJHI S/O SHRI CHADILAL MAJHI, AGED ABOUT 45 YEARS, OCCUPATION: TECHNICIAN HAND PUMP/HAND PUMP MECHANIC GRAM POST SALEHA, TEH. GUNOUR (MADHYA PRADESH)

.....PETITIONER

(BY SHRI SAMEER BEOHAR - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THR. ITS PRINCIPAL SECRETARY PUBLIC HEALTH ENGINEERING DEPARTMENT VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
2. ENGINEER IN CHIEF PUBLIC HEALTH ENGINEERING DEPARTMENT JAL BHAWAN, BANGANGA (MADHYA PRADESH)
3. SUPERINTENDENT ENGINEER PUBLIC HEALTH ENGINEERING DEPARTMENT DIVISION PANNA (MADHYA PRADESH)
4. EXECUTIVE ENGINEER PUBLIC HEALTH ENGINEERING DEPARTMENT DIVISION PANNA (MADHYA PRADESH)
5. GENERAL ADMINISTRATIVE DEPARTMENT (PAY CELL) THR. ITS SECRETARY VALLABH BHAWAN (MADHYA PRADESH)
6. PRINCIPAL SECRETARY FINANCE DEPARTMENT, STATE OF M.P. VALLABH BHAWAN (MADHYA PRADESH)
7. JOINT SECRETARY AMOUNTS AND TREASURY SAGAR DIVISION (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI MANAS MANI VERMA - ADVOCATE)

WRIT PETITION No. 11486 of 2019

BETWEEN:-

RAMPAT CHOUDHARY S/O SHRI PAYRELAL
CHUDHARY, AGED ABOUT 52 YEARS, OCCUPATION:
TECHINICIAN HAND PUMP R/O 314 WARD NO 13 JAGAT
CHOWKI (MADHYA PRADESH)

.....PETITIONER

(BY SHRI SAMEER BEOHAR - ADVOCATE)

AND

1. THE STATE OF M.P. THR. PRINCIPAL SECRETARY
VALLABH BHAWAN (MADHYA PRADESH)
2. ENGINEERING IN CHIEF PUBLIC HEALTH
ENGINEERING DEPARTMENT JAL BHAWAN
BANGANGA BHOPAL (MADHYA PRADESH)
3. SUPERINTENDENT ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
MP (MADHYA PRADESH)
4. EXECUTIVE ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
DISTT PANNA (MADHYA PRADESH)
5. GENERAL ADMINISTRATIVE DEPARTMENT
THROUGH ITS SECRETARY VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)
6. PRINCIPAL SECRETARY FINANCE DEPARMENT
MANTRALAYA VALLABH BHAWAN BHOPAL MP
(MADHYA PRADESH)

JOINT DIRECTOR AMOUNTS AND TREASURY
SAGAR DIVISION SAGAR DISTT SAGAR DISTT
SAGAR (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI MANAS MANI VERMA - GOVT. ADVOCATE)

WRIT PETITION No. 11487 of 2019

BETWEEN:-

RAMAKANT GARG S/O SHRI MOHAN PRASAD GARG,
AGED ABOUT 58 YEARS, OCCUPATION: TECHNICIAN
HAND PUMP MECHANIC GRAM POST SALEHA, GUNOR,

PANNA (MADHYA PRADESH)

.....PETITIONER

(BY SHRI SAMEER BEOHAR - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THR. ITS
PRINCIPAL SECRETARY VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)
2. ENGINEER IN CHIEF PUBLIC HEALTH
ENGINEERING DEPARTMENT JAL BHAWAN,
BANGANGA (MADHYA PRADESH)
3. SUPERINTENDENT ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
(MADHYA PRADESH)
4. EXECUTIVE ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
(MADHYA PRADESH)
5. GENERAL ADMINISTRATIVE DEPARTMENT (PAY
CELL) THR. ITS SECRETARY VALLABH BHAWAN,
BHOPAL (MADHYA PRADESH)
6. PRINCIPAL SECRETARY FINANCE DEPARTMENT
STATE OF M.P. VALLABH BHAWAN (MADHYA
PRADESH)
7. JOINT DIRECTOR AMOUNTS AND TREASURY,
SAGAR DIVISION (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI MANAS MANI VERMA - GOVT. ADVOCATE)

WRIT PETITION No. 11488 of 2019

BETWEEN:-

PURSHOTTAM LAL CHOUDHARY S/O SHRI
RAMKHLAWAN CHOUDHARY, AGED ABOUT 49 YEARS,
OCCUPATION: TECHNICIAN HAND PUMP HAND PUMP
MECHANIC 149 YADAV MOHALLA WARD NO. 5 PANNA
NAKA DEVENDRA NAGAR PANNA (MADHYA PRADESH)

.....PETITIONER

(BY SHRI SAMEER BEOHAR - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THROUGH ITS
PRINCIPAL SECRETARY PUBLIC HEALTH
ENGINEERING DEPARTMENT VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)
2. ENGINEER IN CHIEF PUBLIC HEALTH
ENGINEERING DEPARTMENT JAL BHAWAN
BANGANGA BHOPAL (MADHYA PRADESH)
3. SUPERINTENDENT ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
DISTT PANNA MP (MADHYA PRADESH)
4. EXECUTIVE ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
MP (MADHYA PRADESH)
5. GENERAL ADMINISTRATIVE DEPARTMENT
THROUGH ITS SECRETARY VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)
6. PRINCIPAL SECRETARY FINANCE DEPARTMENT
VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
7. JOINT DIRECTOR AMOUNTS AND TREASURY
SAGAR DIVISION DISTT SAGAR (MADHYA
PRADESH)

सत्यमेव जयते

.....RESPONDENTS

(BY SHRI MANAS MANI VERMA - GOVT. ADVOCATE)

WRIT PETITION No. 11489 of 2019**BETWEEN:-**

RAM NARAYAN TIWARI S/O SHRI BALDEO PRASAD
TIWARI, AGED ABOUT 60 YEARS, OCCUPATION:
TECHNICIAN HAND PUMP/ HAND PUMP MECHANIC R/O
YADAV MOHALLA WARD NO. 5 PANNA NAKA
DEVENDRA NAGAR (MADHYA PRADESH)

.....PETITIONER

(BY SHRI SAMEER BEOHAR - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THR. ITS

PRINCIPAL SECRETARY PUBLIC HEALTH
ENGINEERING DEPARTMENT VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)

2. ENGINEER IN CHIEF PUBLIC HEALTH
ENGINEERING DEPARTMENT JAL BHAWAN
BANGANGA BHOPAL (MADHYA PRADESH)
3. SUPERINTENDENT ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
DIST PANNA (MADHYA PRADESH)
4. EXECUTIVE ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
DISTT PANNA (MADHYA PRADESH)
5. GENERAL ADMINISTRATIVE DEPARTMENT
THROUGH ITS SECRETARY VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)
6. PRINCIPAL SECRETARY FINANCE DEPARTMENT
VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
7. JOINT DIRECTOR AMOUNTS AND TREASURY
SAGAR DIVISION SAGAR DIST SAGAR (MADHYA
PRADESH)

.....RESPONDENTS

(BY SHRI MANAS MANI VERMA - GOVT. ADVOCATE)

WRIT PETITION No. 11490 of 2019

BETWEEN:-

BADRI PRASAD PATEL S/O SHRI RAM SHIROMANI
PATEL, AGED ABOUT 58 YEARS, OCCUPATION:
TECHNICIAN HAND PUM MECHANIC GRAM MAHEVA
POST BORI, TEH SAHANAGAR, PANNA (MADHYA
PRADESH)

.....PETITIONER

(BY SHRI SAMEER BEOHAR - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THR. ITS
PRINCIPAL SECRETARY VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)

2. ENGINEER IN CHIEF PUBLIC HEALTH
ENGINEERING DEPARTMENT JAL BHAWAN
BANGANGA BHOPAL (MADHYA PRADESH)
3. SUPREINTENDENT ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
(MADHYA PRADESH)
4. EXECUTIVE ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
(MADHYA PRADESH)
5. GENERAL ADMINISTRATION DEPARTMENT (PAY
CELL) THROUGH SECRETARY VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)
6. PRINCIPAL SECRETARY FINANCE DEPARTMENT
VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
7. JOINT DIRECTOR AMOUNTS AND TREASURY
DIVISION SAGAR (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI MANAS MANI VERMA - GOVT. ADVOCATE)

WRIT PETITION No. 11494 of 2019

BETWEEN:-

SHIV NARAYAN MISHRA S/O SHRI BANSHBALAK
MISHRA, AGED ABOUT 61 YEARS, OCCUPATION:
TECHNICIAN HAND PUMP MECHANIC GRAM POST
MOHANDRA, PANTA MOHALLA TH. SIMARIYA
(MADHYA PRADESH)

.....PETITIONER

(BY SHRI SAMEER BEOHAR - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THR. ITS
PRINCIPAL SECRETARY VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)
2. ENGINEER IN CHIEF PUBLIC HEALTH
ENGINEERING DEPARTMENT JAL BHAWAN
BANGANGA BHOPAL (MADHYA PRADESH)
3. SUPERINTENDENT ENGINEER PUBLIC HEALTH

ENGINEERING DEPARTMENT DIVISION PANNA
MP (MADHYA PRADESH)

4. EXECUTIVE ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
(MADHYA PRADESH)
5. GENERAL ADMINISTRATIVE DEPARTMENT
THROUGH ITS SECRETARY VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)
6. PRINCIPAL SECRETARY FINANCE DEPARTMENT
VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
7. JOINT DIRECTOR AMOUNTS AND TREASURY
SAGAR SAGAR (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI MANAS MANI VERMA - GOVT. ADVOCATE)

WRIT PETITION No. 11495 of 2019

BETWEEN:-

RAJENDRA KUMAR ASTHANA S/O SHRI RAM KRISHAN
ASTHANA, AGED ABOUT 52 YEARS, OCCUPATION:
TECHNICIAN HAND PUMP/HAND PUMP MAECHANIC
R/O 315, BANI SAGAR DISTT. PANNA M.P. (MADHYA
PRADESH)

सत्यमेव जयते

.....PETITIONER

(BY SHRI SAMEER BEOHAR - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THR. ITS
PRINCIPAL SECRETARY PUBLIC HEALTH
ENGINEERING DEPARTMENT VALLABH BHAWAN
BHOPAL M.P. (MADHYA PRADESH)

2. ENGINEER IN CHIEF PUBLIC HEALTH
ENGINEERING DEPARTMENT JAL BHAWAN
BANGANGA BHOPAL (MADHYA PRADESH)

3. SUPREINTENDENT ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
(MADHYA PRADESH)

4. EXECUTIVE ENGINEER PUBLIC HEALTH

ENGINEERING DEPARTMENT DIVISION PANNA
(MADHYA PRADESH)

5. GENERAL ADMINISTRATION DEPARTMENT PAY
CELL THROUGH SECRETARY VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)
6. PRINCIPAL SECRETARY FINANCE DEPARTMENT
VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
7. JOINT DIRECTOR AMOUNTS AND TREASURY
DIVISION SAGAR (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI MANAS MANI VERMA - GOVT. ADVOCATE)

WRIT PETITION No. 11585 of 2019

BETWEEN:-

RAM SUMIRAN VISHWAKARMA S/O LATE SHRI
BRAHMDEEN VISHWAKARMA, AGED ABOUT 52 YEARS,
OCCUPATION: TECHNICIAN HAND PUMP HAND PUMP
MECHANIC LIG-7 CHATRSAL WARD NO.13 JAGAT
CHOWKI (MADHYA PRADESH)

.....PETITIONER

(BY SHRI SAMEER BEOHAR - ADVOCATE)

AND

1. THE STATE OF MADHYA PRADESH THR. ITS
PRINCIPAL SECRETARY PUBLIC HEALTH
ENGINEERING DEPARTMENT VALLABH BHAWAN
BHOPAL (MADHYA PRADESH);
2. ENGINEER IN CHIEF PUBLIC HEALTH
ENGINEERING DEPARTMENT JAL BHAWAN
BANGANGA BHOPAL (MADHYA PRADESH)
3. SUPERINTENDENT ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DIVISION PANNA
DISTT PANNA (MADHYA PRADESH)
4. EXECUTIVE ENGINEER PUBLIC HEALTH
ENGINEERING DEPARTMENT DISTT PANNA
(MADHYA PRADESH)
5. GENERAL ADMINISTRATIVE DEPARTMENT

THROUGH ITS SECRETARY VALLABH BHAWAN
BHOPAL (MADHYA PRADESH)

6. PRINCIPAL SECRETARY FINANCE DEPARTMENT
VALLABH BHAWAN BHOPAL (MADHYA PRADESH)
7. JOINT DIRECTOR AMOUNTS AND TREASURY
SAGAR SAGAR (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI MANAS MANI VERMA - GOVT. ADVOCATE)

This petition coming on for admission this day, the court passed the following:

ORDER

In this batch of petitions there is challenge to the order dated 14-01-2019 issued by the Engineer-in-Chief, Public Health Engineering Department, Bhopal, whereby recovery has been ordered against the petitioners on the ground that the benefit of pay-scale of Rs.1150-1800 (revised pay-scale Rs.3500-5200) was extended to the petitioners, whereas the said pay-scale was admissible with effect from 01-01-1996.

2. It is contended by the parties that the issue involved in these writ petitions is no more *res integra*, inasmuch as extension of benefit of pay-scale of Rs.1150-1800 to Hand Pump Mechanics came up for consideration before this Court in the case of **Ajai Singh Rathore vs. State of M.P. and others (W.P. No.4473/2009)**, and this Court has specifically held that pay-scale of Rs.3500-5200 is admissible from 01-01-1996, and even the said pay-scale was extended from a date prior to that and the same cannot be recovered, in absence of any fault of the employee concerned.

3. The order passed by the Single Bench in the case of **Ajay Singh Rathore (supra)** was also considered by the Division Bench and the same has also attained finality. The order passed by this Court in **Ajay Singh Rathore**

(supra) has been subsequently considered by another Co-ordinate Bench of this Court in **W.P. No.12488/2003 (Shyam Sunder Soni vs. State of M.P. & ors.)** and **W.P. No.19247/2011**, and while following the ratio laid down in the case of **Ajay Singh Rathore (supra)**, dated 28-03-2019 the order of recovery has been quashed.

4. Learned counsel for the respondents submits that in the present case, the petitioners cannot assail the order of recovery, as they had executed undertakings which have been brought on record as Annexure-R/2. It is the further contention of the learned counsel that in view of the law laid down by the Apex Court in the case of **High Court of Punjab and Haryana and others vs. Jagdev Singh, 2016 SCC OnLine SC 748** and **Chandi Prasad Uniyal vs. State of Uttarakhand, (2012) 3 SCC 417**, the petitioners are precluded from assailing the order of recovery, inasmuch as the benefit of pay-scale which was not admissible to the petitioners was availed. Thus, the learned counsel submits that the present writ petitions deserve to be dismissed.

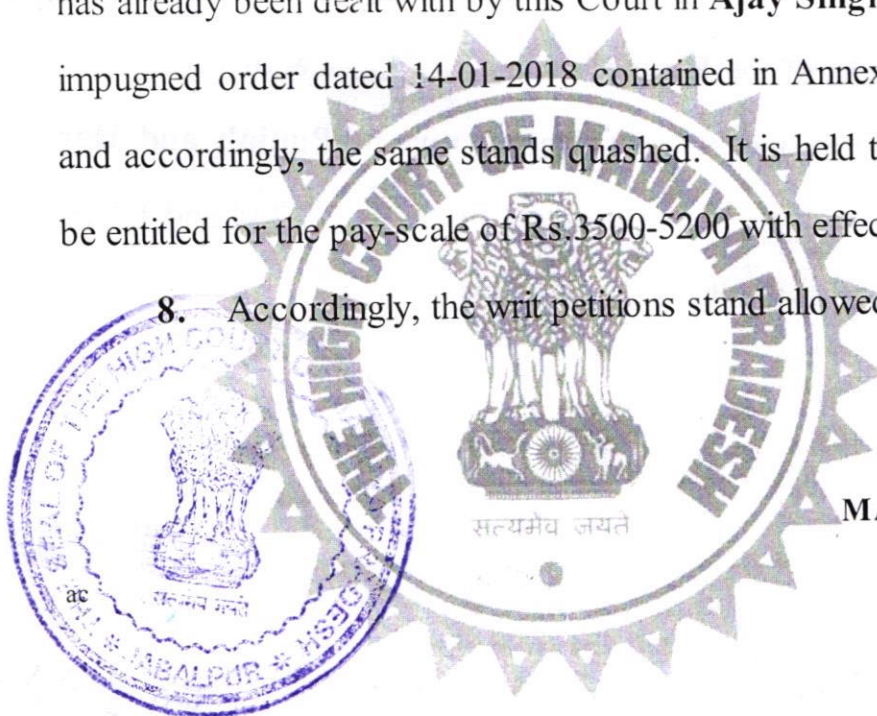
5. Having considered the submissions advanced on behalf of the parties, it is evident that the question of extension of benefit of pay-scale of Rs.1500-1800 (revised pay-scale Rs.3500-5500) came up for consideration before this Court in the case of **Ajay Singh Rathore (supra)**. This Court held that Hand Pump Mechanics are entitled for the said benefit with effect from 01-01-1996. The Court also quashed the order of recovery and concluded that extension of benefit of the said pay-scale from a date prior to 01-01-1996 was not on account of fault of the employee concerned.

6. In the present case, as according to the respondents the benefit was extended to the petitioners with effect from 1993. So far as the year 1993 is concerned, when the said benefit was extended, there is no undertaking on

record. The sole undertaking which has been brought on record as Annexure-R/2 refers to revision of pay with effect from 01-01-2006. It is evident that much prior to that, benefit of the pay-scale was extended to the petitioners in the year 1993. Therefore, at the time of extension of benefit, there was neither any indemnity bond nor an undertaking on behalf of the petitioners. Thus, the grounds which have been taken recourse to by the respondents in para 9 and 11 of the return, are unsustainable.

7. Thus, this Court is of the considered view that the issue in question has already been dealt with by this Court in **Ajay Singh Rathore (supra)**. The impugned order dated 14-01-2018 contained in Annexure-P/1 is unsustainable and accordingly, the same stands quashed. It is held that the petitioners would be entitled for the pay-scale of Rs.3500-5200 with effect from 01-01-1996.

8. Accordingly, the writ petitions stand allowed.



sd/-
MANINDER S. BHATTI
JUDGE