IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 13th OF NOVEMBER, 2025

WRIT PETITION No. 5855 of 2018

SHYAMA VERMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Sanjay Rusia - Advocate for the petitioner.

Shri Anshuman Swamy - Government Advocate for the respondents/State.

ORDER

The present petition has been filed by the petitioner for the following relief:-

> i. To issue Writ in The Nature of certiorari and set-aside the order dated 30.09.2015 (Annexure P-4).
> ii. To direct respondents to give seniority to the petitioner at par with the respondents No.4 and 5 treating service of petitioner from date of appointment.
> iii. Any other relief this Hon'ble Court deems fit & proper under given facts and circumstances of the case may also be granted in favour of the petitioner.

2. The contention of the petitioner is that the private respondent Nos. 4 and 5 were appointed as daily wagers on 24.07.1991. However, the petitioner has been appointed as daily rated employee on 09.04.1990. It is further submitted that the services of the respondent Nos. 4 and 5 were regularized vide order dated 25.02.1992 (Annexure R/2), but the

petitioner has not been given the benefit of regularization at the same time when her juniors respondent Nos. 4 and 5 were regularized. It is submitted that being aggrieved by the ill-action of the respondents, the petitioner and certain other employees filed original applications before the State Administrative Tribunal and writ petitions before this Court, which is mentioned in the order of regularization Annexure P/1 dated 27.09.2008. The services of the petitioner were regularized, but with condition No.8 that the petitioner would not be entitled to any seniority and arrears of monetary benefits. Being aggrieved by the said condition, the petitioner had filed WP No. 4803/2011, which was disposed of vide order dated 30.11.2013 (Annexure P/2), by which this Court has directed the respondents to decide the claim of the petitioner for regularization at par with the private respondents by striking of the condition No.8 of the appointment order Annexure P/1. Pursuant to the said order, the petitioner had submitted a representation-Annexure P/3, which was decided vide order dated 30.09.2015 (Annexure P/4), which is under challenge in this petition.

3. It is submitted by the learned counsel for the petitioner that for the purpose of deciding the dispute and claim of the petitioner, a committee was constituted, which, in majority, has decided to give benefit to the petitioner at par with the private respondents vide Annexure P/5. However, the said decision has not been given effect to and another meeting has been convened on 09.09.2015 (Annexure P/6)

wherein again the committee has resolved that the petitioner is not entitled for the benefits at par with the respondent Nos. 4 and 5. It is submitted that from bare perusal of the operative paragraph of the minutes of the committee's resolution, it seems that it has been written by a single member, which has been made as a committee's decision by correcting the singular opinion in to the majority opinion. On the basis of the said committee's report, the impugned order dated 30.09.2015 (Annexure P/4) has been passed. Hence, prayed for quashment of the order stating that it suffers from illegality and hit by Article 14 of the Constitution of India.

4. *Per contra*, learned counsel for the respondents has submitted that the matter of the petitioner was referred to the committee in compliance of the order passed by this Court and the committee by majority has resolved that the petitioner is not entitled for the benefit because the private respondents were given appointment directly in regular establishment vide order dated 24.07.1991, therefore, the committee held that as the respondent Nos. 4 and 5 were directly appointed in the regular establishment, they were not the daily wagers and due to want of formal sanction, they were not given posting in regular establishment and they were made to work as daily wagers. Therefore, the petitioner cannot claim any benefit at par with the respondent Nos. 4 and 5.

5. Heard the learned counsel for the parties and perused the record.

6 . This Court in the earlier round of litigation in WP No.4803/2011 (Annexure P/2) by order dated 03.11.2013, has observed as under:-

> "According to me, such conditions can never be imposed and they are hit by Article 14, 16 and 21 of the Constitution of India."

and directed the respondents to decide the representation. Admittedly, there was no challenge to this order passed by this Court, resulting the condition No.8 imposed in the appointment letter as inoperative. Simultaneously, the respondents were directed to decide the representation of the petitioner. Meaning thereby, the Court was conscious to issue direction to the respondents to consider the case of the petitioner at par with the private respondents by ignoring the condition No.8 so that there would not be any impediment in the way of the respondents to decide the claim of the petitioner for regularization at par with the private respondents and consequently, claim the seniority and arrears.

7. However, from perusal of the impugned order, it is evident that the respondents have considered those facts which are not substantiated by any cogent material before this Court. In the order, it is observed that the private respondents were appointed on 24.07.1991 on a regular post, but, in absence of any administrative sanction, they were allowed to work as daily wagers. However, such orders are neither made available to the petitioner nor filed alongwith the return. It is also observed in the order that just after eight months of their appointment as daily rated

employees, the private respondents were considered for regularization through the departmental process wherein interviews were called and the private respondents were regularized. Now the stand of the State in the order itself is contrary because on one side the State has justified the order on the ground that the private respondents were appointed on a regular post on 24.07.1991 and in absence of administrative sanction, they were allowed to work as daily rated employees and on the other side, it is mentioned that the private respondents were appointed in the regular establishment through a departmental process of interview on 25.02.1992. If the respondents were appointed on regular post on 24.07.1991 then there was no requirement for the the State to again re-appoint them in a regular establishment through a departmental process. It was only an administrative sanction, which is said to be required and that could have been obtained and the private respondents would have been regularized from the date of their appointment i.e. 24.07.1991 or on a subsequent date, but calling a fresh process would mean that the earlier process was never in existence. Thus, the explanation, which has been given by the authority in the order, is not plausible, legal and logical, therefore, cannot be accepted.

8. From the bare perusal of the order dated 25.02.1992 (Annexure R/2) issued for the regular appointment of the private respondents, it is revealed that this order also does not contain any narration of the earlier fact that the private respondents were earlier appointed on a regular post

and they continued as daily wagers due to non-grant of administrative sanction, but, in fact, the order shows that it is a fresh order of appointment on a regular post. The list, which has been issued by the office of the Directorate-Annexure P/1, page No.29, shows that the petitioner was appointed as a daily wager on 09.04.1990 and private respondents were appointed on 24.07.1991. This itself shows that the appointment of the private respondents as daily wagers was subsequent to the appointment of the petitioner. It is also seen from the minutes of the meeting dated 30.11.2013, internal page No.21 of File No. 42/11, that the committee has also resolved to give benefit to the petitioner of regularization and other ancillary benefits at par with the private respondents. The return of the State is also silent on the point that when the committee had already resolved to give benefits to the petitioner at par with the private respondents, second meeting was called. From the perusal of minutes of the second meeting, it is found that it is written by some individual and thereafter, it has been corrected to be shown as the decision of the committee, as it is apparent from the internal page No. 35 of the minutes of the meeting dated 09.09.2015, Page No. 91 of the petition.

9. Thus, this Court is of the considered opinion that the authority just to deprive the petitioner from her legitimate right has convened the second meeting for no reason. Once in the earlier meeting it was resolved by the members of the committee in majority that the petitioner

is entitled for the benefit of regularization at par with the private respondents then there was no reason for recalling the meeting. From the perusal of the minutes of the meeting dated 09.09.2015 (Annexure P/6), it is revealed that the members of the committee have not even discussed the result of the earlier meeting and why such majority decision has been overlooked in the subsequent meeting, is also not mentioned.

10. It is trite law that in every administrative decision the authorities are expected to adhere to the constitutional mandate of Article 14 and 16 of the Constitution of India. Unreasonableness, discrimination and favouratism pollute the administrative process. Article 14 guarantees equal protection of law and equality before the law. No discrimination whatsoever can be done by the authorities by colourable exercise of power . The Apex Court in the case of **Amita vs. Union of India and another** reported in **(2005) 13 SCC 721** in para-11 has held as under:

> "11. ..... Article 14 of the Constitution guarantees to every citizen of India the right to equality before the law or the equal protection of law. The first expression “equality before the law” which is taken from the English common law, is a declaration of equality of all persons within the territory of India, implying thereby the absence of any special privilege in favour of any individual. It also means that amongst the equals the law should be equal and should be equally administered and that likes should be treated alike. Thus, what it forbids is discrimination between persons who are substantially in similar circumstances or conditions. It does not forbid different treatment of unequals. Article 14 of the Constitution is both a negative and positive right. Negative in the sense that no one can be discriminated against: anybody and everyone should be treated as equals. The latter is the core and essence of the right to equality and the State has the obligation to take necessary steps so that every individual is given equal respect

> and concern which he is entitled to as a human being. Therefore, Article 14 contemplates reasonableness in State action, the absence of which would entail the violation of Article 14 of the Constitution."

11. Thus the decision, which is called in question in this petition i.e. order dated 13.09.2015 (Annexure P/4), when tested on the anvil of Article 14 and 16 of the Constitution of India and the law laid down by the Hon'ble Apex Court in the case of **Amita (supra)**, this Court is of the considered opinion that for the reasons mentioned hereinabove it does not pass the judicious scrutiny of this Court. Consequently, the impugned order dated 30.09.2015 (Annexure P/4) is hereby quashed. The authorities are directed to extend the benefit of regularization to the petitioner at par with the respondent Nos. 4 and 5.

12. With the aforesaid, this petition is allowed and disposed of.

(DEEPAK KHOT)
JUDGE

RAGHVENDRA