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**(2011) 11 MP CK 0054**

**Madhya Pradesh High Court (Gwalior Bench)**

**Case No:** Writ Petition 4071 of 2005 (S)

Sahab Singh Bhadoria

APPELLANT

Vs

State of M.P. and others

RESPONDENT

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**Date of Decision:** Nov. 1, 2011

**Acts Referred:**

- Constitution of India, 1950 - Article 14

**Hon'ble Judges:** Sujoy Paul, J

**Bench:** Single Bench

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

Hon''ble Shri Justice Sujoy Paul

1.The brief facts necessary for adjudication of this matter are as under:

2. Petitioner was appointed as Guruji in EGS Centre Kankara, Gram Panchayat Gopalpur Taktaiya, District Guna. The petitioner's services were terminated by order dated 07/05/1999. The petitioner challenged this order by filing W.P.No. 1675/99 before this Court. This Court passed the order Annexure-P/1 dated 30/06/2004. Para 6 of this order reads as under:

6. Accordingly, the order, Annexure-/1 passed on 07/05/1999 is quashed. Respondents are directed to reinstate the petitioner in service and grant him all consequential benefits. In case, it is found that no post is available for accommodation and appointment of the petitioner and removal of respondent No.5 is necessary for the same, respondents No. 1 to 4 are directed to take consequential action for removal of respondent No.5 from service and appointment of the petitioner. However, it would be for the respondents to implement this order by either granting appointment to the petitioner or creating a separate post or in any other vacant post without terminating service of the respondent No.5.

Thereafter, the respondents reinstated the petitioner in service. However, petitioner on reinstatement, made a request for grant of consequential benefits i.e. Honorarium for the intervening period i.e. from termination to reinstatement and also prayed for revision of Honorarium, which was enhanced from Rs. 1,000/-to 2,500/-per month. Since, these benefits were not extended in favour of the petitioner, he filed the present petition.

3. The State Government by filing return has taken a stand that since the centre in which petitioner was working, was closed down, the question of reinstatement and consequential benefits does not arise. It is stated that there is no centre in existence, in which petitioner was appointed in the year 1994 and therefore, consequential benefits cannot be granted to the petitioner. In addition to that, by placing reliance on Annexure-R/3 dated 26/07/2003, it is stated that petitioner's institution was not of that category, which could have fetched Rs. 2,500/-per month for the petitioner.

4. Shri Raghuvanshi learned counsel for the petitioner submits that both the stands taken by the State Government are unsustainable in the light of categorical directions of this Court. The respondents had no other option but to pay him consequential benefits. Once, the petitioner is reinstated, it is no more open for the respondents to say that consequential benefits cannot be granted. He submits that the circular dated 26/07/2003 was put to test before this Court in [Brajesh Kumar Tiwari Vs. C.E.O., Zila Panchayat and Others](#), This Court in the said case has quashed the said circular and held that the class legislation is impermissible and amounts creating class within the class. In other words, this Court came to hold that a valid class is divided by creating a class within the class. such impermissible exercise cannot pass the test of Article 14 of the Constitution of India. Accordingly, the said circular was quashed and respondents were directed as under:

11. From the above principle of law as laid down by Hon"ble the Supreme Court, it is crystal clear that under Article 14 a valid classification is permitted but class legislation is not permitted. In the present case, the respondents are trying to create two classes of Gurujī. However, it is neither in accordance with the Education Guarantee Scheme nor the respondents have mentioned sufficient reasons in the return for the same. Hence, the aforesaid classification and the conditions laid down by the Circular (Annexure R-1) dated 26/07/2003 are illegal and arbitrary. The arguments advanced by the learned counsel for the State that there is delay and laches on the part of the petitioner cannot be accepted because this Court has struck down the circular on the basis of arbitrariness.

12. Consequently, the petition of the petitioner is allowed. It is ordered that the petitioner is entitled enhanced rate of Honorarium from the date of his initial appointment as enhanced by the Government from time to time. The arrears be also paid to the petitioner. The order be complied with within a period of six weeks from the date of receipt of certified copy of this order.

Thus, Shri Raghuvanshi submits that petitioner deserves success on both the counts.

5. I have heard learned counsel for the parties and perused the record.

6. It is true that this Court in so many words in Para 6 of the order passed by this Court in W.P.No. 1675/99 dated 30/06/2003 directed the petitioner's reinstatement with all consequential benefits. Off late, respondents reinstated the petitioner, but did not grant him consequential benefits. In the opinion of this Court, it is high-handed and colourable exercise of power. Once petitioner is reinstated, it is no more open for the respondents to say that centre is not available. The respondents should have respected the Court order and should have extended consequential benefits to the petitioner. It is unfortunate that for a decided matter, the petitioner was made to knock the doors of this Court in the second round.

7. Thus, I am unable to uphold the action of the respondents in not granting the consequential benefits to the petitioner. So far the enhanced Honorarium is concerned, since the circular dated 26/07/2008 is quashed and set aside, the petitioner being similarly situated deserves benefit of the order passed by this Court in Brajesh Kumar Tiwari's case (Supra).

8. Consequently, the petition is allowed. Respondents are directed to pay consequential benefits from 07/05/1999 till the date Honorarium is revised and thereafter, on the basis of revised rates. The Honorarium is required to be paid to the petitioner for the period, he has rendered service. The respondents are directed to undertake the aforesaid exercise strictly within 60 days. The arrears be also paid to the petitioner. Petitioner shall be entitled to get Rs. 5,000/-(Rupees Five Thousand Only) as costs.