



1

WP-15408-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 7th OF MAY, 2025WRIT PETITION No. 15408 of 2025*THE STATE OF MADHYA PRADESH AND OTHERS**Versus**RAJENDRA KUMAR SHARMA*

.....
Appearance:

Shri Jitesh Sharma - Government Advocate for petitioners/State.
.....

ORDER

This petition under Article 226 of the Constitution of India has been filed against the order dated 05.04.2024 passed by Labour Court No.1, Gwalior in Miscellaneous Case No.1/MPIR/2024 (Miscellaneous) and order dated 31.01.2025 passed by Industrial Court Bench at Gwalior in Case No.MA 25/MPIR/2024 by which an application filed by petitioner for modification of order dated 21.11.2013 has been rejected on the ground of limitation.

2. It is submitted by counsel for petitioners that by order dated 21.11.2013 passed by Labour Court No.1 Gwalior in MCC No.40/MPIR/2010 (Miscellaneous), the petitioner was directed to pay arrears to respondent to the extent of Rs.7,07,647/-. It is submitted that although the respondent was the Classified Diploma Holder Supervisor, but pay scale which was payable to Sub-Engineer was applied. Accordingly, petitioners preferred Writ Petition No.4437/2014 which was disposed of by an order



dated 25.02.2016 with liberty to petitioner to file an application for modification of order passed by Labour Court on the application filed by respondent/employee under Section 108 of Madhya Pradesh Industrial Relationship Act. It is fairly conceded by counsel for petitioners that thereafter, authorities of petitioners went into deep sleep and never filed any application for modification. In the meanwhile, RRC was also issued on 29.03.2015 thereby directing the Collector, Gwalior to recover an amount of Rs.7,07,647/-. Although RRC was issued to Collector, Gwalior on 29.03.2015 even that could not awake the Authorities of State Government from their deep sleep and they were happy with the non-action on the orders/awards passed by the Labour Court.

3. Later on, respondent filed Writ Petition No.16248/2023 for direction for expeditious disposal of execution of RRC and Coordinate Bench of this Court by order dated 14.07.2023 directed the Collector, Gwalior to execute the RRC within a period of three months. Thereafter, petitioners preferred a Review Petition No.53/2024 and Coordinate Bench of this Court by order dated 24.01.2024 recalled the order dated 14.07.2023 and restored Writ Petition No.16248/2023 to its original file. Thereafter, respondent withdrew the Writ Petition No.16248/2023 on 15.02.2024. It is submitted that since proceedings were already initiated for execution of RRC, therefore, petitioners filed an application for modification of order dated 03.01.2024 and Labour Court No.1, Gwalior by order dated 05.04.2024 rejected the said application on the ground of limitation. Appeal filed by the petitioners has also been dismissed.



4. It is submitted by learned counsel for petitioners/State that State has to work through its functionaries and if any of the Officer of the State Government has deliberately tried to give undue advantage to the respondent, then respondent should not be allowed to get undue enrichment on the basis of misconduct of an Officer of State and therefore, Labour Court should not have dismissed the application for modification of order dated 21.11.2013 on the ground of limitation.

5. Heard learned counsel for petitioners.

6. The undisputed fact is that on 21.11.2013, Labour Court had passed an order in favour of respondent by holding that respondent is entitled to receive pay scale of Classified Diploma Holder Supervisor and directed that he is entitled to receive an amount of Rs.7,07,647/-. Petitioners filed Writ Petition No.4437/2014 which was disposed of by order dated 25.02.2016 with liberty to the petitioners to file an application for modification.

7. RRC was issued on 29.03.2015, thus it is clear that RRC was already issued during the pendency of Writ Petition No.4437/2014. Thereafter, it is undisputed fact that petitioners went in hibernation or in deep sleep and did not take any action. Even Collector, Gwalior did not take any action for execution of RRC. It is being observed by this Court that whenever an award is passed by Labour Court and RRCs are issued against government officers, then Collectors are not showing any interest in execution of said RRCs and the persons are being compelled to approach this Court for a direction for early execution of RRC. It is really surprising that on one hand, officers of department against whom an award has been



passed, are sleeping over the matter and on the other hand, the Collectors are trying to protect such officers by not executing the of RRCs.

8. Be that whatever it may be.

9. Petitioners filed an application for modification of order dated 21.11.2013 only on 03.01.2024. Counsel for petitioners could not point out as to whether any application under Section 5 of Limitation Act was filed or not?

10. Be that whatever it may be.

11. In the application which was filed by petitioners for modification of order dated 21.11.2013, it was mentioned as under:-

“9. यह कि, विभाग के कई उपखण्डों को मर्ज कर एक ही उपखण्ड बनाये जाने के आदेश शासन द्वारा जारी किये गये, जिसमें प्रतिप्रार्थी के प्रकरण के संबंध में फाईल मिस-प्लेस हो गई थी उसके पश्चात कोरोना महामारी के कारण कार्यालय में आवागमन बंद हो गया था इस कारण श्रीमान न्यायालय के समक्ष प्रार्थना पत्र प्रस्तुत करने में विलम्ब हुआ जो कि क्षमा किये जाने योग्य है। प्रार्थीगण प्रार्थना पत्र प्रस्तुत करने में हुये विलम्ब को क्षमा किये जाने का निवेदन श्रीमान न्यायालय से करते हैं।”

12. If the aforesaid reasons are considered, then it is clear that they are completely vague and misleading and false even to the knowledge of petitioners. A general statement was made in Para 9 that certain sub-divisions were being merged into one sub-division and accordingly, it was mentioned that file of respondent was misplaced and later on, on account of COVID - 19 pandemic, Office working had come to a halt and thus, delay in filing the application be condoned. The aforesaid reasons as disclosed by petitioners are shocking even to the conscience of this Court.

13. The petition filed by petitioners was dismissed by order dated



25.02.2016 with liberty to file an application for modification. When the merger of sub-division began and when it came to an end, has not been explained. Who was the custodian of file and was responsible of misplacement of file has not been disclosed. What steps were taken by petitioners for filing an application for modification immediately after order dated 25.02.2016 was passed, is completely missing. According to the Labour Court, an application for modification should have been filed within a period of one month from the date of liberty granted by this Court i.e. by order dated 25.02.2016. Therefore, it was obligatory on the part of the petitioners to explain that as to why the application for modification was not filed within a period of one month from 25.02.2016. The said aspect is completely missing. When the file went missing and when it was recovered, is also completely missing in Para - 9 of the application. What steps were taken by petitioners against the person, who was responsible for misplacement of file, is also missing. Name of person who was the custodian and responsible for misplacement of file, is not known. It is really surprising that petitioner had filed the application like an ordinary layman litigant and also tried to take advantage of restrictions which were imposed in the light of COVID -19 pandemic. Nation-wise lock-down was declared in the month of March, 2020 whereas liberty was granted by this Court by order dated 25.02.2016. Why the petitioners and its Officers were in deep sleep for four long years has not been explained.

14. Learned counsel for the petitioners also could not justify that when the period of limitation had already expired, then how the restrictions on



movement of persons or functioning of the Offices in the wake of COVID - 19 Pandemic would come to their rescue? Had it been a case that immediately after restrictions were lifted, an application for modification was filed, then this Court could have understood the adverse impact of restrictions imposed on account of COVID - 19 Pandemic. The restrictions were completely lifted by the end of year 2021, still application for modification was filed in the month of January, 2024. Thus, it is clear that petitioners itself is not interested in prosecution of its own cause and was unnecessarily giving a false and baseless excuses which were rightly not accepted by the Labour Court.

15. Under these circumstances, this Court is of considered opinion that Labour Court No.1, Gwalior and Industrial Court, Bench at Gwalior did not commit any mistake by rejecting the application filed by petitioners for modification of order dated 21.11.2013.

16. Now, only question for consideration is as to whether public exchequer can be permitted to be burdened on account of lethargic attitude of the officials of the State Government specifically when State Government itself is encouraging such type of negligent attitude of its officers by not taking any action against them ?

17. As already pointed out that State Government has not taken any action against any person who was responsible for not filing any application for modification of order dated 21.11.2013. State Government has not taken any action against the any of the Collector who did not show any interest in execution of RRC.



18. Under these circumstances, it is clear that State Government itself is not interested in improving its own functioning by taking departmental action against such erring officers. Public exchequer cannot be allowed to be burdened only on account of failure on the part of State Government. It is not out of place to mention here that public exchequer is the amount of tax payers and not the personal amount of the State Government.

19. Accordingly, it is directed that State Government shall recover the amount from the persons who are responsible for not filing application for modification within a period of limitation or within a reasonable period.

20. Let this inquiry be concluded within a period of three months from today. It is directed that recovery would not be by way of minor punishment as provided under Rule 10 of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966, therefore, whether any erring officer has already retired or not, will not come in the way of recovery of the financial loss sustained by State.

21. Let report be submitted by Principal Secretary, Water Resources Department with regard to ascertainment of liability within a period of four months. Report be submitted before the Principal Registrar of this Court.

22. With aforesaid observations, this petition is **dismissed**.

(G. S. AHLUWALIA)
JUDGE