

REVISED

ITEM NO.7+15

COURT NO.1

SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petitions for Special Leave to Appeal (C)CC Nos.21470-21471/2014

(Arising out of impugned final judgment and order dated 02/12/2011 in WP No. 1836/2011 and 08/05/2012 in WA No. 106/2012 passed by the High Court of M.P at Jabalpur)

STATE OF M.P & ORS

Petitioner(s)

VERSUS

DAMODAR MALVIYA & ORS

Respondent(s)

(With application for c/delay in filing SLP and office report)

WITH

SLP(C) No. 38942-38943/2013

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

SLP(C) No. 38944-38945/2013

(With Office Report)

SLP(C) No. 38946-38947/2013

(With Office Report)

SLP(C) No. 22049-22050/2014

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

SLP(C) No. 22051-22052/2014

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

SLP(C) No. 22053-22054/2014

(With appln.(s) for c/delay in refiling SLP and appln.(s) for Signature Not Verified

c/delay in filing SLP and Office Report)

Digitally signed by

NEETU KHAJURIA

Date: 2015.02.17

16:58:29 IST

Reason:

SLP(C) No. 22055-22056/2014

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

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SLP(C) No. 22058-22059/2014

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

SLP(C) No. 22060-22061/2014

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

SLP(C) No. 23915-23916/2014

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SLP(C) No. 23918-23919/2014
(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

SLP(C) No. 23920-23921/2014
(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

SLP(C) No. 23930-23931/2014
(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

SLP(C) No. 23932-23933/2014
(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

SLP(C) No. 23913-23914/2014
(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

SLP(C) No. 24385-24386/2014
(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

SLP(C) No. 25983-25984/2014
(With appln.(s) for c/delay in filing SLP and appln.(s) for exemption from filing O.T. and appln.(s) for permission to file additional documents and appln.(s) for c/delay in refiling SLP and Office Report)

SLP(C) No. 34205-34206/2014
(With appln.(s) for exemption from filing O.T. and appln.(s) for permission to file additional documents and appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

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S.L.P.(C)...CC No. 21715-21716/2014
(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

S.L.P.(C)...CC No. 21882-21883/2014
(With appln.(s) for c/delay in refiling SLP and appln.(s) for c/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 200-201/2015
(With appln.(s) for c/delay in refiling SLP and appln.(s) for c/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 253-254/2015
(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

S.L.P.(C)...CC No. 335-336/2015
(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

S.L.P.(C)...CC No. 338-339/2015
(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and Office Report)

S.L.P.(C)...CC No. 198-199/2015
(With appln.(s) for c/delay in refiling SLP and appln.(s) for c/delay in filing SLP and Office Report)

SLP(C) No. 3600-3601/2014

(With appln.(s) for permission to file additional documents and appln.(s) for exemption from filing O.T. and Office Report)

SLP(C) No. 9498-9500/2013

(With appln.(s) for intervention and appln.(s) for intervention and appln.(s) for exemption from filing O.T. and appln.(s) for permission to file additional documents and appln.(s) for c/delay in filing SLP and Interim Relief and Office Report)

SLP(C) No. 31950-31951/2014

(With appln.(s) for c/delay in filing SLP and appln.(s) for c/delay in refiling SLP and appln.(s) for exemption from filing O.T. and appln.(s) for permission to file additional documents and Office Report)

S.L.P.(C)...CC No. 34-35/2015

(With appln.(s) for c/delay in refiling SLP and appln.(s) for

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c/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 351-352/2015

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

S.L.P.(C)...CC No. 400-401/2015

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

S.L.P.(C)...CC No. 429-430/2015

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

S.L.P.(C)...CC No. 431-432/2015

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

S.L.P.(C)...CC No. 440-441/2015

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S.L.P.(C)...CC No. 448/2015

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

S.L.P.(C)...CC No. 481-482/2015

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

S.L.P.(C)...CC No. 483-484/2015

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

S.L.P.(C)...CC No. 488-489/2015

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

S.L.P.(C)...CC No. 507-508/2015

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

S.L.P.(C)...CC No. 1012-1013/2015

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

S.L.P.(C)...CC No. 1024-1025/2015

(With appln.(s) for c/delay in refiling SLP and appln.(s) for

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S.L.P.(C)...CC No. 1027-1028/2015
(With appln.(s) for c/delay in refiling SLP and appln.(s) for
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S.L.P.(C)...CC No. 1030-1031/2015
(With appln.(s) for c/delay in refiling SLP and appln.(s) for
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S.L.P.(C)...CC No. 1209-1210/2015
(With appln.(s) for c/delay in refiling SLP and appln.(s) for
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S.L.P.(C)...CC No. 1216-1217/2015
(With appln.(s) for c/delay in refiling SLP and appln.(s) for
c/delay in filing SLP and Office Report)

S.L.P.(C)...CC No. 1259-1260/2015
(With appln.(s) for c/delay in filing and refiling SLP and
Office Report)

S.L.P.(C)...CC No. 1262-1263/2015
(With appln.(s) for c/delay in filing and refiling SLP and
Office Report)

S.L.P.(C)...CC No. 12646-12647/2015
(With appln.(s) for c/delay in filing and refiling SLP and
Office Report)

S.L.P.(C)...CC No. 1274-1275/2015
(With appln.(s) for c/delay in filing and refiling SLP and
Office Report)

Date: 21/01/2015 These petitions were called
on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ARUN MISHRA

For Petitioner(s) Mr. Mishra Saurabh, Adv.
Ms. Vanshaja Shukla, Adv.
Mr. Ankit Kr. Lal, Adv.

For Respondent(s) Mr. Ravindra Shrivastava, Sr. Adv.
Mr. Navin Prakash, Adv.

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Ms. Oshi Jain, Adv.
Mr. Anshman Shrivastava, Adv.

Mr. Mrigendra Singh, Sr. Adv.
Mr. D.S. Parmar, Adv.
Mr. Ankit Mishra, Adv.
Mr. Sushil Tomar, Adv.
Ms. Abha R. Sharma, Adv.

Mr. Kunal Verma, Adv.
Mr. Rajul Shrivastava, Adv.
Mr. S.K. Verma, Adv.

Mr. M.P. Singh, Adv.
Mr. Rajeev Kumar Bansal, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Delay in filing and refiling the special leave petitions is condoned.

Delay, in filing the application(s) for substitution, if any, is condoned.

Application(s) for substitution, if any, is allowed.

The petitioner/State of Madhya Pradesh has challenged the correctness or otherwise of the judgment and order passed by the High Court of Madhya Pradesh, Bench at Jabalpur in Writ Appeal No.106 of 2012 and connected matters dated 08/05/2012.

The learned Single Judge while disposing of the writ petition by his order dated 02.12.2011

had issued the following directions:

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(a) On receipt of a certified copy of this order, the State Government shall take note of the recommendations made by the State Human Rights Commission and if required after constituting a High Level Committee or Commission to go into the questions and recommendations made by the Human Rights Commission and after studying the organization, working set up and other factors in the establishment of the Home Guards, make endeavour to lay down schemes, rules or regulations for regulating the work of the Home Guards establishment and if required, may formulate statutory rules and regulations in this regard, for prescribing their service conditions.

(b) Till the aforesaid exercise is not completed, all the employees working in the Home Guards department and who are petitioners before this Court, so also other similarly situated persons, who may have not filed writ petitions, be granted salary at the minimum/basic of the pay prescribed for the lowest post i.e...constable in the police department, without any running pay scale, allowances etc.

(c) All the employees would be entitled to the minimum of the pay scale i.e...the basic of the pay, as is payable to a constable in the police department, and the said benefit shall

be extended to the employees with effect from 1.1.2011.

(d) The employees would be paid the aforesaid amount with revision of basic pay, if any, in the corresponding police department from time to time hereafter, till a final scheme or regular rules and regulations are not formulated for working in the Home Guards organization."

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The directions so issued by the learned Single Judge has been affirmed by the Division Bench while disposing of writ appeal No.106 of 2012 dated 08.05.2012.

During the hearing of these special leave petitions, Shri Mishra Saurabh, learned counsel for the petitioner/State submits that the State is primarily aggrieved by the direction issued by the Court in clause (c) of the judgment and order of the Court.

The learned counsel would submit that the Court has directed the State to pay the minimum of the pay-scale i.e. the basic of the pay, as is payable to a constable in the police department w.e.f. 01.01.2011 and if such direction is to be complied with by the State, it has to face heavy financial burden.

Shri Ravindra Shrivastava, learned senior counsel appearing for the respondents, justifies all the directions issued by the learned Single Judge and which are confirmed by the Division Bench while disposing of the writ petition and writ appeal.

Having considered the submissions made by

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both the learned counsel, we are of the opinion, that if the benefit that is payable to the respondents is modified to the extent that the said benefit shall be paid by the State w.e.f.

01.12.2011, it would not cause prejudice either to the petitioners/State or to the respondents. Accordingly, we direct that the benefit of the basic pay as ordered by the High Court shall be extended to the respondents not w.e.f. 01.01.2011 but w.e.f. 01.12.2011 till the date honorarium had been enhanced to Rs.9000/- by the State Government.

It is also brought to our notice by the learned counsel for the petitioner/State that after disposal of the writ petitions and the writ appeals, the State Government had constituted a high level committee which has gone into the working condition of the respondents/home guards. It is further stated that they have suggested to increase the honorarium payable to the home guards.

In our opinion, the State Government is yet to frame the rules and regulations for regulating the working conditions of the respondents/home

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guards. This exercise requires to be done by the State Government as early as possible. Therefore, we direct the State Government to frame appropriate rules and regulations for regulating the working conditions of the respondents/home guards as early as possible at any rate within eight months from the receipt of the copy of this Court's order.

Till such time the petitioner/State shall pay to the respondents/home guards the honorarium that is now fixed by the State Government on the recommendations made by the high level Committee from the date such recommendation is made by the high level committee.

The special leave petitions are disposed of.

As a sequel to the above, all pending application(s) stand disposed of.

(Neetu Khajuria)
Sr.P.A.

(Vinod Kulvi)
Assistant Registrar

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ITEM NO.7 COURT NO.1 SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petitions for Special Leave to Appeal (C)CC Nos.21470-21471/2014

(Arising out of impugned final judgment and order dated
02/12/2011 in WP No. 1836/2011 and 08/05/2012 in WA No.
106/2012 passed by the High Court of M.P at Jabalpur)

STATE OF M.P & ORS Petitioner(s)

VERSUS

DAMODAR MALVIYA & ORS Respondent(s)

(With application for c/delay in filing SLP and office
report)

WITH
SLP(C) No. 38942-38943/2013
(With appln.(s) for c/delay in filing SLP and appln.(s) for
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SLP(C) No. 38944-38945/2013
(With Office Report)

SLP(C) No. 38946-38947/2013
(With Office Report)

SLP(C) No. 22049-22050/2014
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(With appln.(s) for c/delay in filing SLP and appln.(s) for
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SLP(C) No. 22058-22059/2014

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SLP(C) No. 24385-24386/2014
(With appln.(s) for c/delay in filing SLP and appln.(s) for
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SLP(C) No. 25983-25984/2014
(With appln.(s) for c/delay in filing SLP and appln.(s) for
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SLP(C) No. 34205-34206/2014
(With appln.(s) for exemption from filing O.T. and appln.(s)
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SLP(C) No. 31950-31951/2014
(With appln.(s) for c/delay in filing SLP and appln.(s) for
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Date : 21/01/2015 These petitions were called on for hearing
today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ARUN MISHRA

For Petitioner(s) Mr. Mishra Saurabh, Adv.
Ms. Vanshaja Shukla, Adv.
Mr. Ankit Kr. Lal, Adv.

For Respondent(s) Mr. Ravindra Shrivastava, Sr. Adv.
Mr. Navin Prakash, Adv.
Ms. Oshi Jain, Adv.
Mr. Anshman Shrivastava, Adv.

Mr. Mrigendra Singh, Sr. Adv.
Mr. D.S. Parmar, Adv.
Mr. Ankit Mishra, Adv.
Mr. Sushil Tomar, Adv.
Ms. Abha R. Sharma, Adv.

Mr. Kunal Verma, Adv.
Mr. Rajul Shrivastava, Adv.
Mr. S.K. Verma, Adv.

Mr. M.P. Singh, Adv.
Mr. Rajeev Kumar Bansal, Adv.

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UPON hearing the counsel the Court made the following

O R D E R

Delay in filing and refiling the special
leave petitions is condoned.

Delay, in filing the application(s) for
substitution, if any, is condoned.

Application(s) for substitution, if any, is
allowed.

The petitioner/State of Madhya Pradesh has challenged the correctness or otherwise of the judgment and order passed by the High Court of Madhya Pradesh, Bench at Jabalpur in Writ Appeal No.106 of 2012 and connected matters dated 08/05/2012.

The learned Single Judge while disposing of the writ petition by his order dated 02.12.2011 had issued the following directions:

(a) On receipt of a certified copy of this order, the State Government shall take note of the recommendations made by the State Human Rights Commission and if required after constituting a High Level Committee or Commission to go into the questions and recommendations made by the Human Rights Commission and after studying the organization, working set up and other factors in the establishment of the Home Guards, make endeavour to lay down schemes, rules or regulations for regulating the work of the Home Guards establishment and if required, may

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formulate statutory rules and regulations in this regard, for prescribing their service conditions.

(b) Till the aforesaid exercise is not completed, all the employees working in the Home Guards department and who are petitioners before this Court, so also other similarly situated persons, who may have not filed writ petitions, be granted salary at the minimum/basic of the pay prescribed for the lowest post i.e...constable in the police department, without any running pay scale, allowances etc.

(c) All the employees would be entitled to the minimum of the pay scale i.e...the basic of the pay, as is payable to a constable in the police department, and the said benefit shall be extended to the employees with effect from 1.1.2011.

(d) The employees would be paid the aforesaid amount with revision of basic pay, if any, in the corresponding police department from time to time hereafter, till a final scheme or regular rules and regulations are not formulated for working in the Home Guards organization."

The directions so issued by the learned

Single Judge has been affirmed by the Division Bench while disposing of writ appeal No.106 of 2012 dated 08.05.2012.

During the hearing of these special leave petitions, Shri Mishra Saurabh, learned counsel for the petitioner/State submits that the State is primarily aggrieved by the direction issued by the Court in clause (c) of the judgment and order of the Court.

The learned counsel would submit that the Court has directed the State to pay the minimum of the pay-scale i.e. the basic of the pay, as is payable to a constable in the police department w.e.f. 01.01.2011 and if such direction is to be complied with by the State, it has to face heavy financial burden.

Shri Ravindra Shrivastava, learned senior counsel appearing for the respondents, justifies all the directions issued by the learned Single Judge and which are confirmed by the Division Bench while disposing of the writ petition and writ appeal.

Having considered the submissions made by both the learned counsel, we are of the opinion, that if the benefit that is payable to the respondents is modified to the extent that the said benefit shall be paid by the State w.e.f. 01.12.2011, it would not cause prejudice either to the petitioners/State or to the respondents.

Accordingly, we direct that the benefit of the basic pay as ordered by the High Court shall be

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extended to the respondents not w.e.f. 01.01.2011 but w.e.f. 01.12.2011 till the date honorarium had

been enhanced to Rs.9000/- by the State Government.

It is also brought to our notice by the learned counsel for the petitioner/State that after disposal of the writ petitions and the writ appeals, the State Government had constituted a high level committee which has gone into the working condition of the respondents/home guards. It is further stated that they have suggested to increase the honorarium payable to the home guards.

In our opinion, the State Government is yet to frame the rules and regulations for regulating the working conditions of the respondents/home guards. This exercise requires to be done by the State Government as early as possible. Therefore, we direct the State Government to frame appropriate rules and regulations for regulating the working conditions of the respondents/home guards as early as possible at any rate within eight months from the receipt of the copy of this Court's order.

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Till such time the petitioner/State shall pay to the respondents/home guards the honorarium that is now fixed by the State Government on the recommendations made by the high level Committee from the date such recommendation is made by the high level committee.

The special leave petitions are disposed of.

As a sequel to the above, all pending application(s) stand disposed of.

(Neetu Khajuria)
Sr.P.A.

(Vinod Kulvi)
Assistant Registrar