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WA-1720-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

WRIT APPEAL No. 1720 of 2025

CNR No.: MPHC010410382025

*THE JAWAHARLAL NEHRU KRISHI VISHWA VIDYALAYA AND
OTHERS*

Versus

SUDHIR THAKUR

Appearance:

Shri Praveen Dubey - Advocate for the appellants.

*Shri Samdarshi Tiwari-Senior Advocate with Shri Utkarsh Pachori-
Advocate for the respondent.*

WITH

WRIT APPEAL No. 1383 of 2024

CNR No.: MPHC010355482024

JAWAHARLAL NEHRU KRISHI VISHWA VIDYALAYA AND OTHERS

Versus

J K VISHWAKARMA AND OTHERS

Appearance:

Shri Praveen Dubey- Advocate for the appellants.

*Shri Samdarshi Tiwari- Senior Advocate with Shri Utkarsh Pachori- Advocate for
the respondent.*

WRIT APPEAL No. 1399 of 2024

CNR No.: MPHC010361682024

*THE JAWARHARLAL NEHRU KRISHI VISHWA VIDYALAYA AND
OTHERS*



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WA-1720-2025

*Versus***UMESH KUMAR SHRIVASTAVA**

Appearance:*Shri Praveen Dubey- Advocate for the appellants.**Shri Samdarshi Tiwari- Senior Advocate with Shri Utkarsh Pachori- Advocate for the respondent.*

WRIT APPEAL No. 2397 of 2024**CNR No.: MPHC010651632024*****JAWAHARLAL NEHRU AGRICULTURE UNIVERSITY, JABALPUR
AND OTHERS****Versus****R.K. TIWARI AND OTHERS***

Appearance:*Shri Praveen Dubey- Advocate for the appellants.**Shri Bramha Nand Pandey- Advocate for the respondent.*

Reserved on 07.10.2026**Pronounced on 26.10.2026****ORDER*****Per. Justice Vivek Rusia***

These bunch of writ appeals have been preferred by appellant/Jawaharlal Nehru Krishi Vishwavidyalaya, Jabalpur, and its authorities, impugning respective orders passed by the learned Single Judge in Writ Petitions, whereby the writ petitions filed by the respondents/writ petitioners was allowed and they were held entitled to back wages for the period between their respective dates of retirement and reinstatement, along with interest at the rate of 6%. However in W.A No.1720 of 2025, the Review Petition No. 1207/2024 was filed by the respondent and vide order dated 21st October, 2024 (Annexure A/1) against the order passed in WP



No.17859 of 2025, which was dismissed.

2. The issues involved in these writ appeals are common, therefore, they were heard analogously and are being decided by this common order. However, for the sake of convenience and clarity facts of WA No.1383 of 2025 are enumerated hereinafter.

3. Facts of the case, in short, are as under:

(i) That the respondents were working as Time Keepers and Assistant Engineer under the work-charged establishment of the appellant/University. According to the appellants, the respondents were not appointed against any sanctioned vacant posts under the regular establishment of the appellant/University, but were engaged against the work-charged and contingency establishment. According to the appellant/University the service conditions of regular employees are governed by the Jawaharlal Nehru Krishi Vishwavidyalaya Adhiniyam, 1963, the Statutes of 1964 and the Jawaharlal Nehru Krishi Vishwavidyalaya Services (General Conditions of Service) Regulations, 1969, whereas the respondents, being work-charged employees, were not covered by the said regular service framework.

(ii) The State Government, by notification dated 31.03.2018, enhanced the age of superannuation of its regular employees from 60 years to 62 years. The appellant/University adopted the enhanced age of superannuation for its regular officers and employees by order dated 06.06.2018 (Annexure A-2). The work-charged and contingency-paid employees also sought extension of the said benefit. Their demand was considered by the Board of Management of the University, which, by



resolution dated 20.06.2018, resolved to extend the enhanced age of superannuation to such employees as well. Since the proposal involved financial implications, approval of the State Government was sought. However, the State Government, by its communication dated 30.08.2018, rejected the proposal, stating that the benefit had not been extended to work-charged and contingency-paid employees of the agricultural universities in the State.

(iii). Consequently, the respondents were directed, by order dated 07.09.2019, to retire upon attaining the age of 60 years, with effect from 31.05.2020 and 31.07.2020, respectively. Aggrieved thereby, they filed Writ Petition No.4427 of 2020 challenging their retirement. No interim protection was granted, and they accordingly stood retired from service.

(iv). Subsequently, the Board of Management of the appellant University, by resolution dated 22.12.2021, took a policy decision to enhance the age of superannuation of work-charged and contingency-paid employees to 62 years with prospective effect from the date of the resolution. In furtherance thereof, the University issued an administrative order dated 21.04.2022 (Annexure A-5), providing for reinstatement of those employees, who had not attained the age of 62 years as on 22.12.2021. The order stipulated that such reinstatement would not entitle the employees to service benefits for the intervening period, including back wages. It further provided that employees who had already attained the age of 62 years as on the said cut-off date would not be entitled to reinstatement or consequential benefits.

(v). Pursuant to the aforesaid decision, the respondents were reinstated



in service by order dated 21.04.2022 for the remaining period up to the age of 62 years. They accepted the reinstatement order and joined their duties. However, they challenged the condition denying them back wages and other consequential benefits by filing Writ Petition. Their challenge was confined to the said condition, and the resolution dated 22.12.2021, including the cut-off date prescribed therein, was not challenged.

(vi). The respondents contended before the learned Single Judge that the Vice-Chancellor lacked authority to impose the condition denying back wages, as the resolution of the Board of Management dated 22.12.2021 did not expressly contain such a condition. They further contended that they had been prevented from working despite being willing to discharge their duties and, therefore, the principle of “no work, no pay” was not applicable. Reliance was also placed upon the judgment in *Jagdish Singh Vs. State of Madhya Pradesh and Others*, passed in Writ Petition No.20039 of 2020 by the Gwalior Bench, as well as the Full Bench decision in *Vishnu Murtiya and Others v. State of Madhya Pradesh and Others*, reported in (2006) 1 MPLJ 23.

(vii). The learned Single Judge, by the impugned order dated 28.11.2023 (Annexure A/1) in W.P No.16367/2022, allowed the writ petition and directed payment of back wages for the period from the respective dates of retirement of the respondents until their reinstatement, together with interest at the rate of 6%. Being aggrieved by the said order, the appellants have preferred the present writ appeal, contending that the learned Single Judge erred in treating the resolution dated 22.12.2021 as retrospective in



operation and in granting monetary benefits for a period during which the respondents had not worked and when no decision extending their age of superannuation was in force.

Submissions on behalf of appellants:

4. Learned counsel appearing for the appellants submitted that the impugned order passed by the learned Single Judge is contrary to the facts and applicable service conditions and deserves to be set aside. It is contended that the respondents were working as Time Keepers under the work-charged establishment and were not appointed against sanctioned posts in the regular establishment. Their service conditions were, therefore, distinct from those of regular employees governed by the Jawaharlal Nehru Krishi Vishwavidyalaya Adhiniyam, 1963, the Statutes of 1964 and the Regulations of 1969. It is further submitted that the rules governing work-charged and contingency-paid employees of the State Government had not been adopted by the appellant/University, and the service conditions of regular employees were not applicable to the respondents.

5. Learned counsel further submitted that the State Government had rejected the University's proposal dated 20.06.2018 to extend the age of superannuation to 62 years to work-charged and contingency-paid employees. The said decision was never challenged by the respondents and had attained finality. Accordingly, the respondents were rightly retired at the age of 60 years in 2020, and their retirement was never declared illegal by any competent court. The subsequent resolution dated 22.12.2021 enhanced the age of superannuation to 62 years prospectively, subject to the prescribed



cut-off date. Pursuant thereto, the respondents were reinstated by order dated 21.04.2022, which expressly denied back wages and other service benefits for the intervening period. The respondents have not challenged the resolution or the cut-off date, and their reinstatement does not confer any right to claim retrospective monetary benefits.

6. It is also submitted that the learned Single Judge failed to appreciate that the impugned condition in the reinstatement order was consistent with the prospective policy decision taken by the Board of Management. The fact that the resolution did not expressly mention the denial of back wages did not render the consequential condition illegal, particularly when the benefit of enhanced superannuation itself was extended prospectively and subject to the terms of the administrative order.

7. Learned counsel further submitted that the learned Single Judge erred in relying upon *Jagdish Singh v. State of Madhya Pradesh* and Others *Writ Petition No.20039 of 2020* and *Vishnu Murtiya and Others v. State of Madhya Pradesh* and Others reported in *(2006) 1 MPLJ 23*, as the statutory and service rules applicable in those cases were distinct from those governing the appellant University. It is also contended that similar claims raised by other work-charged and daily-rated employees had been rejected and such decisions affirmed in writ appeals.

8. Learned counsel also submitted that the respondents' retirement had not been set aside on merits and they had not worked during the intervening period, the principle of “no work, no pay” was applicable. The appellants also highlighted the University's financial constraints and submitted that the



award of back wages with 6% interest imposes an undue financial burden.

9. On the aforesaid grounds, learned counsel for the appellants prayed that the writ appeals be allowed, the respective impugned orders passed in respective Writ Petitions be set aside, and the writ petitions filed by the respondents be dismissed with costs.

Submissions on behalf of respondents:

10. Per contra, learned senior counsel appearing for the respondents has opposed the submissions made on behalf of the appellants and prayed for dismissal of the writ appeals. It is submitted that immediately after their forcible retirement, the respondents approached the writ court, which, after considering the facts and circumstances of the case, passed a reasoned order granting them back wages for the intervening period.

11. It is further submitted that the scope of adjudication before the learned Single Judge was in the context of the earlier challenge to their retirement, their continued willingness to serve, and their subsequent reinstatement and to the question of whether the respondents were entitled to back wages in view of their subsequent reinstatement. The impugned order, therefore, ought not to be set aside merely by reiterating the appellants' administrative and financial considerations.

12. Learned Senior counsel submitted that the principle of "no work, no pay" is not an inflexible rule and cannot be mechanically applied in circumstances where an employee was willing to work but was prevented from discharging duties by the employer. In the present case, the respondents did not abstain from work of their own volition. Had they not been retired by



the appellants, they would have continued to discharge their duties in the ordinary course. The appellants cannot, therefore, rely upon the respondents' non-performance of duties when the same was a consequence of the appellants' own action.

13. Learned counsel for the respondents appearing in Writ Appeal 2397 of 2024 has supported the submissions made by the learned senior counsel for the respondents and has prayed for dismissal of writ appeal.

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

15. The State Government vide notification dated 31.03.2018 enhanced the age of retirement of its regular employee from 60 years to 62 years. The appellant/University also adopted such enhancement for its regular Officers and employees vide order dated 06.06.2018 (Annexure A-2). The work charged and contingency paid employees submitted a representation for enhancement of their age of retirement. The proposal was sent by the appellant/University, but the State Government rejected the same vide communication dated 30.08.2018 (Annexure P-11). Consequently, the respondent/employees were retired upon attaining the age of 60 years and they approached this Court by way of writ petition. During the pendency of the writ petition, the Board of Management of appellant/University passed a resolution dated 22.12.2021 (Annexure A-3) for enhancing the age of superannuation of work charged and contingency paid employees to 62 years. However, the said enhancement was made effective for those employees, who had not attained the age of 62 years as on 22.12.2021. Meaning thereby that those who have retired prior to such date, would not be



entitled to benefit of enhanced age of retirement. Once the appellant/University has adopted the notification of the State Government for enhancing the age of regular Officers and employees to 60 to 62 years, then there was no such reason to deny the same to the work charged and contingency paid employees at the relevant time along with others. The writ petitioners made representation, the appellant/University recommended the same, but the State Government rejected the same; therefore, those employees like writ petitioners, who retired prior to such cut-of-date cannot be made a separate Class, in order to deny the benefit of enhancement of retirement age. Even otherwise, we have gone through the resolution passed by the appellant/University, which is reproduced below:-

प्रमंडल (बोर्ड) की 230वीं बैठक बुधवार दिनांक 22.12.2021 को दोपहर 11.00 बजे की कार्यसूची के पद क्र. 11 से संबंधित प्रारूप कार्य विवरण (Draft proceedings) की प्रतिलिपि :-

X	X	X	X	X
X	X	X	X	X

पद क्र 11 विश्वविद्यालय के कार्यभारित एवं आकस्मिकता निधि से वेतन पाने वाले टाईम स्केल श्रमिकों की अधिवार्षिकी आयु 60 वर्ष से 62 वर्ष किये जाने के संबंध में।

निर्णय प्रमंडल द्वारा विश्वविद्यालय के कार्यभारित एवं आकस्मिकता निधि से वेतन पाने वाले टाईम स्केल श्रमिकों की अधिवार्षिकी आयु 60 वर्ष से 62 वर्ष किये जाने का अनुमोदन किया गया। (कार्यवाही - स्थापना शाखा - दो)

X	X	X	X	X
X	X	X	X	X

पृष्ठांकन कमाक-गोप०/230वी प्रमंडल/५17 दिनांक 13/01/2022

प्रदिलिपि - सहायक कुलसचिव (स्थापना शाखा दो) ज.ने.कू.वि.वि. जबलपुर की ओर 07 दिवस के भीतर आगामी कार्यवाही संपन्न कर अधोहस्ताक्षरकर्ता को प्रेषित करने हेतु।

कुलसचिव



16. In which no cut-of-date was fixed, the Vice Chancellor while accepting the resolution passed by the Board of Management put such a condition, when the Board did not fixed cut-of-date and made it applicable to limited Class of employee, then the Vice Chancellor lacks jurisdiction to put such condition; therefore, we do not find any ground to interfere with the order passed by the writ court. Hence, these writ appeals are dismissed.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE

RM