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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE VIVEK AGARWAL**

ON THE 24th OF APRIL, 2024

WRIT PETITION No. 10991 of 2009

BETWEEN:-

**KU. MASOOD JAHA D/O MUSHARAF MOHAMMAD KHA,
AGED ABOUT 51 YEARS, OCCUPATION: ASST. GRADE II
H.NO. 8 GALI DOUD AHMAD SULTANIYA ROAD
FATEHGARH BHOPAL (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI ABHINAV SHRIVASTAVA - ADVOCATE)

AND

- 1. MADHYA PRADESH RAJYA VIDYUAT MANDAL
SHAKTI BHAWAN RAMPUR JABALPUR
(MADHYA PRADESH)**
- 2. CHIEF ENGINEER M.P. POWER TRANSMISSION
COMP. LTD. [HRD] SHAKTI BHAWAN RAMUR
JABALPUR (MADHYA PRADESH)**
- 3. EXECUTIVE ENGINEER SHAHAR SAMBHAG
SOUTH M.P. MADHYA KSHETRA VIDYUT VITRAN
CO. LTD. TULSI NAGAR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI DEEPAK SAHU - PANEL LAWYER FOR THE STATE)

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*This petition coming on for admission this day, the court passed the
following:*

ORDER

Petitioner's contention is that petitioner is aggrieved of the orders dated 19.05.2009 and 05.09.2009 whereby certain recovery is made from the petitioner.

Petitioner's contention is that on completing 18 years of service, she was

granted higher pay scale of Grade-I vide ordered No.2458 dated 2.07.2004 and at that time a condition was imposed that petitioner will have to undergo Accounts Training and pass the said examination, failing which she will be liable to lose her benefits given to her.

Petitioner's contention is that Annexure R-4 is the undertaking taken under coercion and in view of the decision of Hon'ble Full Bench of this Court in case of **The State of Madhya Pradesh and others Vs. Jagdish Prasad Dubey passed in W.A. No.815 of 2017, decided on 06.03.2024**, undertaking will not be binding on the petitioner.

I have gone through the pleadings as well as Annexure R-4. Annexure R-4 reads as under :-

"I hereby undertake that if the higher pay scale as applied for by me is granted by the Board I will undergo three months Accounts Training as and then deputed and also pass the associated examination and on my failure to undergo training and pass the associated examination, the Board shall be at liberty to withdraw the higher pay scale granted to me from the date of issue of the order deputing me for Accounts Training."

Thus it is evident that petitioner was given higher pay scale of Assistant Grade-I in anticipation of her not only undergoing three months Accounts Training but also passing the relevant associated examination. Once petitioner has failed to clear the examination as admitted by Shri Abhinav Shrivastava, then it cannot be said that the undertaking was taken under coercion. The condition for grant of higher pay scale of O.A. Grade-I being passing of Accounts Training Examination, and admittedly petitioner failed to pass that

examination, then recovery in terms of the undertaking cannot be said to be illegal and arbitrary calling for interference.

Petition fails and is hereby **dismissed**.

(VIVEK AGARWAL)
JUDGE

MTK

