
(2013) 08 MP CK 0014

In the Madhya Pradesh High Court

Case No : Writ Petition (PIL) No. 13199 of 2013

Ajay Dubey

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 02-08-2013

Acts Referred:

Citation : (2013) 5 MPHT 269 : (2014) 1 MPJR 77

Hon'ble Judges : Krishn Kumar Lahoti, Acting C.J.;U.C. Maheshwari, J

Bench : Division Bench

Advocate : Rajesh Chand, for the Appellant; R.S. Siddique, Counsel for the Respondent No. 1/Union of India and Mr. P.K. Kourav, A.A.G. for the Respondent Nos. 2 and 3/State, for the Respondent

Final Decision : Dismissed

Judgement

1. The petitioner has sought for the following reliefs:-- (i) Hon''ble Court be pleased to call for the entire record pertaining to grant of extension in services of respondent No. 4 for its kind perusal.

(ii) Hon''ble Court be further pleased to issue a writ in the nature of certiorari quashing order dated 31-1-2013 passed by the respondent No. 1 granting approval for extension of services of respondent No. 4 and all other consequential orders granting extension of services to the respondent No. 4 as arbitrary, illegal and void.

(iii) Hon''ble Court be further pleased to issue a writ in the nature of mandamus commanding respondents to forthwith retire respondent No. 4 from service.

(iv) Any other suitable relief deemed fit in the facts and circumstances of the case may also kindly be granted together with the cost of this petition.

The case of the petitioner is that extension of service of respondent No. 4 for a further period of six months is contrary to Rule 16 of All India Services (Death-cum-Retirement Benefit) Rules, 1958 as there is no public interest is involved in

extending the services of the respondent No. 4. It is also submitted that there is no satisfaction on the part of the respondent Nos. 1 and 2 in this regard.

2. From the perusal of the letter of the Chief Minister (Annexure P-1), we find that extension of service of respondent No. 4 was recommended by the Chief Minister by recommending the matter thus:--

This is to request you to kindly allow an extension of services for a period of six months to Mr. R. Parasuram (IAS 1978) who is at present serving as Chief Secretary of my State. He is an officer with outstanding track record throughout his career both in the Central and State Government. He has served with distinction as Chief Secretary. However, on the date of superannuation he would have had only eleven months tenure. I am of the view that an extension of six months will allow the State Government to utilise his services both in policy making and implementation functions for a slightly longer period. This will help the administration immensely.

During the seven months that he has completed as Chief Secretary, he has taken the initiatives and shown the drive to make all round improvements in the administration. He is of unimpeachable integrity. I shall be grateful that Mr. R. Parasuram, IAS, is given an extension of six months from 1st April, 2013 to 31st (sic: 30th) September, 2013.

3. It appears that the matter was processed by the Cabinet Secretary of the Central Government by note-sheet, dated 28-1-2013 (Annexure P-2), which reads as under:--

The Chief Minister of Madhya Pradesh, has requested extension of service of Shri R. Parasuram, IAS (MP: 78) (DoB: 24-3-1953), Chief Secretary, Madhya Pradesh, for a period of six months with effect from 1-4-2013 to 30-9-2013.

2. It has been mentioned by the State Government that Shri Parasuram is an officer with outstanding track record throughout his career both in Central and State Governments. The State Government has also submitted that during the seven month tenure as Chief Secretary, Shri Parasuram has taken the initiative and shown the drive to make all round improvements in the administration.

3. It has also been mentioned that an extension in service of Shri Parasuram will allow the State Government to utilise his services both in policy making and implementation functions for a slightly longer period and that this will help the administration immensely. The State Government has also stated that the officer is of unimpeachable integrity.

4. In terms of the third proviso to Rule 16(1) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958, a Member of the service holding the post of Chief Secretary may be given extension of service for a period not exceeding six months on the recommendations made by the State Government with full justification and in public interest, with the prior approval of the Central Government.

5. In view of the above, Prime Minister may like to consider approving the proposal mentioned in Paragraph 1 above.

4. Thereafter, the matter was placed before the Prime Minister and the Prime Minister had accorded approval for extension of the service of the respondent No. 4 for the period of six months from the initial date of superannuation. This action is under challenge in this petition.

5. Rule 16 of the aforesaid Rules, 1958 provides thus:--

16. Superannuation gratuity or pension.--(1) A member of the service shall retire from the service with effect from the afternoon of the last day of the month in which he attains the age of sixty years:

Provided that a member of the service whose date of birth is the first day of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years:

Provided further that a member of the service dealing with budget work or working as a full time member of a Committee which is to be wind up within a short period may be given extension of service for a period not exceeding three months in public interest, with the prior approval of the Central Government:

Provided also that a Member of the Services holding the post of Chief Secretary to a State Government may be given extension of service for a period not exceeding six months on the recommendations made by the concerned State Government with full justification and in public interest, with the prior approval of the Central Government.

6. From the perusal of the aforesaid, it is apparent that the services of the person holding the post of Chief Secretary may be extended for further period not exceeding six months on the recommendations made by the concerned State Government with full justification in the public interest, with the approval of the Central Government. The aforesaid provision specifically provides that it is for the State Government to show justification and public interest for extension of the services of an Officer to the rank of Chief Secretary.

7. From the perusal of Annexure P-1, it is apparent that the Chief Minister of the State had found full justification in public interest, in extension of the service of the respondent No. 4 for a period of six months and had recommended the matter to the Central Government. Then the Central Government, vide Annexure P-1, had considered the matter objectively for extension of the service of respondent No. 4. Thereafter, the matter was approved by the Hon'ble Prime Minister. It appears that the aforesaid authorities, namely; Central Government and the Hon'ble Prime Minister have recorded full justification for extension of service on the recommendation made by the State Government. From the perusal of Annexure P-1 and Annexure P-2, we find that requirement as was required under the third proviso of Rule 16(1) was fully satisfied and the services of the respondent No. 4 were extended till 30-9-2013, in which we do not find

any error warranting our interference.

8. This petition is found without merit and is dismissed. No order as to costs.