

(2004) 07 MP CK 0053

In the Madhya Pradesh High Court

Case No : Writ Petition No. 5140 of 2003

Brijesh Kumar Singh

APPELLANT

Vs

State of Madhya Pradesh and Others

RESPONDENT

Date of Decision : 30-07-2004

Acts Referred:

Prevention of Food Adulteration Rules, 1955 — Rule 8

Citation : (2004) 4 MPHT 46 : (2004) 2 MPJR 276 : (2004) 4 MPLJ 43

Hon'ble Judges : A.K.Shrivastava, J

Bench : Single Bench

Advocate : Umesh Trivedi, for the Appellant; V.P. Nema, Government Advocate for the Respondent Nos. 1 to 3, for the Respondent

Final Decision : Allowed

Judgement

A.K. Shrivastava, J.

This petition was originally filed before this Court on 9-5-1988, however, on account of the establishment of the Madhya Pradesh State Administrative Tribunal, this petition was transferred to it and after its abolition again this petition has been received by this Court for its adjudication.

By this petition, the petitioner has challenged the validity of Annexure P-8, dated 3-10-1987 issued by Controller Food and Drugs Administration Madhya Pradesh by which the powers conferred to petitioner of Food Inspector have been withdrawn. The reason assigned in the said Annexure is that petitioner does not qualify the requisite qualification as envisaged under Rule 8 of the Prevention of Food Adulteration Rules, 1955 (hereinafter referred to as "the Rules").

I have heard Shri Umesh Trivedi, learned Counsel for the petitioner and Shri V.P. Nema, learned Government Advocate for the respondents.

According to Shri Nema, since the petitioner does not qualify the essential qualification under Rule 8 of the Rules, therefore Annexure A-8 by which powers

of Food Inspector have been withdrawn from petitioner can not be said to be arbitrary. According to learned Government Advocate admittedly the petitioner did not possess the qualification of B.Sc. with Chemistry as one of the subject.

Combatting the aforesaid submission, Shri Umesh Trivedi, learned Counsel for the petitioner has invited my attention to Second Proviso to Rule 8 of the Rules and has contended that petitioner is well qualified under the Rules to hold the post of Food Inspector.

To appreciate the rival contentions of learned Counsel for the parties, it would be condign to re-write Rule 8 of the said Rules which reads thus:--

"8. Qualifications for Food Inspector.-- A person shall not be qualified for appointment as Food Inspector unless he--

(a) is a medical officer in charge of health administration of a local area; or

(b) is a graduate in medicine and has received at least one month's training in food inspection and sampling work approved for the purpose by the Central Government or a State Government; or

(c) is a graduate in Science with Chemistry as one of the subjects or is a graduate in Agriculture or Public Health or Pharmacy or in Veterinary Science or a graduate in Food Technology or Dairy Technology or is a diploma holder in Food Technology or Dairy Technology from a University or Institution established in India by law or has equivalent qualifications recognized and notified by the Central Government for the purpose and has received three months; satisfactory training in food inspection and sampling work under a Food (Health) Authority or in an institution approved for the purpose by the Central Government :

Provided that.....

Provided further that a person who is a qualified Sanitary Inspector having experience as such for a minimum period of one year and has received at least three months training in whole or in parts in food inspection and sampling work, may be eligible for appointment as food inspector, upto the period ending on the 31st March, 1985 and may continue as such if so appointed even though he does not fulfil the qualifications laid down in Clauses (a) to (c):"

If the case of petitioner comes under the ambit of second proviso to the Rule, the action of respondents withdrawing the power of Food Inspector from petitioner would be contrary to the Rules. Shri Trivedi, learned Counsel for the petitioner has invited my attention to Annexure P-1 which is an order appointing petitioner on the post of Sanitary Inspector. Shri Trivedi, learned Counsel also invited my attention to Annexures P-2 and P- 3 which are the certificates notifying that petitioner has undergone the training of Food Inspector and Sampling Work for 90 days, Le., three months. After completing the said training of Food Inspection and Sampling Work vide Annexure P-4, dated 4-5-1984, the petitioner was assigned to discharge the duties and functions of Food Inspector. True, the

petitioner has not passed B.Sc. with Chemistry as one of the subject, but it is no more in dispute that petitioner was appointed on the post of Sanitary Inspector. The authenticity of Annexures P-2 and P-3 has not been challenged in return and this fact has not been denied in the return that petitioner had undergone a training of Food Inspector and Sampling Work for three months. If that be the position, according to me, the case of petitioner would come under the Second Proviso to Rule 8 which I have quoted hereinabove. At this juncture, Shri Nema, learned Counsel invited my attention to the said proviso and has said that the cut off date in the rule has been mentioned as 31st March, 1985 and therefore petitioner can not be benefited. It be seen that petitioner completed his training earlier to this date and was continued to discharge the duties of Food Inspector as it is apparent on bare perusal of Annexure P-4 dated 4-5-1984. Thus, the petitioner did possess the requisite qualification to discharge the duties and functions of Food Inspector under the Rules.

For the reasons stated hereinabove, Annexure P-8, dated 3-10-1987 issued by the respondent No. 2 can not be allowed to remain stand since the same runs contrary to the above said rule and eventually the same is hereby quashed.

In result, this petition succeeds and is hereby allowed with cost. Counsel fee Rs. 2000/- if pre certified. Security amount, if deposited, may be refunded to the petitioner.