
(2019) 01 MP CK 0039

In the Madhya Pradesh High Court

Case No : Writ Petition No. 21853 Of 2018

Chandar Singh

APPELLANT

Vs

State Of Madhya Pradesh

RESPONDENT

Date of Decision : 24-01-2019

Acts Referred:

Citation : (2019) 01 MP CK 0039

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : Koustubh Pathak

Final Decision : Dismissed

Judgement

Having examined the record, it is noticed that the petitioner was working as Home Guard and he has been superannuated with effect from 15.7.2018 on completion of 60 years of age. The petitioner on the basis of the ordinance of the State Government dated 31.3.2018 is claiming the age of superannuation to be 62 years claiming parity with the government employees.

This issue has been considered and decided by this Court by order dated 5.9.2018 passed in WP No.18741/2018 in the matter of Noor Mohammad Vs. State of M.P. and others, wherein this court has held as under:-

"Shri D.C. Patel, learned counsel for the petitioner.

Shri Amit Singh, learned counsel for the State.

Heard.

By this writ petition, the petitioner who is working as Home Guard in the Home Guards Establishment has challenged the order dated 12/06/2018 retiring the petitioner on completing 60 years of age.

The petitioner is claiming that on the basis of the amendment in the Madhya Pradesh Shashkiya Sevak (Adhivarshiki Ayu) Adhiniyam, 2018 the petitioner is

also entitled to continue up to the age of 62 years.

By virtue of the amendment, the age of retirement of government servants has been increased to 62 years, but there is nothing on record to show that the petitioner is a government employee. On the contrary, the Division Bench of this Court in the matter of Punpratap Singh and another Vs. State of M.P. and others reported in 2001 (2) J.L.J. 11 has considered the entire issue in respect of the status of Home Guards in light of the provisions of M.P. Home Guards Rules, 1947 and has found that the Home Guards are not the holders of civil post under the State and held as under:-

"4. With a view to understand the matter closely and clearly, it is necessary to refer to the Preamble and the Statement of Objects and Reasons to the Madhya Pradesh Home Guards Act, 1947 (hereafter for short, Home Guards Act) which read thus :

"Preamble.-- Whereas it is expedient to create a body of volunteers to supplement the Police Force and to assist in any general measure of public welfare in Madhya Pradesh; it is hereby enacted as follows :--

Statement of Objects and Reasons.-- Experience has shown that in real emergencies the ordinary police force is inadequate to deal effectively with the forces of disorder without fuller assistance and cooperation from the members of the public. The present unsettled conditions point to the vital necessity of securing such cooperation and a condition precedent is the inculcation of the habits of self-reliance and discipline and spirit of civic service among the public. This Bill is designed to meet this purpose. The 'Home Guards' will be a purely volunteer force and will supplement the ordinary police, to be used in times of emergency for the purpose of maintaining Law and Order, the protection of the person and property of the citizen and public safety. To start with, the force will be raised in 14 places only, but it may be extended to other areas as necessity arises."

Therefore, it is abundantly clear from the Preamble and the Statement of Objects and Reasons, quoted above, that Home Guards is a body of volunteers to supplement the police force and to assist in any general measure of public welfare in the State. The need to create this body was that ordinary police force was inadequate to deal effectively with the forces of disorder in the absence of co-operation from the members of the public in emergencies. It is, in substance, purely a voluntary force to supplement the ordinary police in times of emergency for maintaining law and order, protection of person and property of citizens and public safety."

In the subsequent decision, this Court has again considered the same issue in the matter of Home Guard Sainik Evam Parivar Kalyan Sangh and others Vs. State of M.P. and another reported in 2012(3) M.P.H.T. 387 and had refused the prayer for issuing the mandamus to declare the Home Guards as holders of the civil post or for granting them regular service along with the regular benefits

available to personnel in the police department.

Since the petitioner is not a government servant or a holder of the civil post, therefore, the petitioner cannot claim entitlement to continue up to the age of 62 years on the basis of Madhya Pradesh Shashkiya Sevak (Adhivarshiki Ayu) Adhiniyam, 2018.

The writ petition is accordingly found to be devoid of any merit, which is accordingly dismissed."

Having regard to the aforesaid and considering the fact that the petitioner's case stands on the same footing, I do not find any merit in the writ petition which is accordingly dismissed.