
(2019) 12 CHH CK 0081
In the Chhattisgarh High Court
Case No : Writ Appeal No. 575 Of 2019

Dr Pritam Lal Choudhary

APPELLANT

Vs

Chhattisgarh Kamdhenu University And Anr

RESPONDENT

Date of Decision : 17-12-2019

Acts Referred:

High Court Of Chhattisgarh Rules 2007 — Rule 156(10)
Chhattisgarh High Court Appeal To Division Bench Act, 2006 — Section 2

Citation : (2019) 12 CHH CK 0081

Hon'ble Judges : P.R. Ramachandra Menon, J; Parth Prateem Sahu, J

Bench : Division Bench

Advocate : Ali Asgar, AS Kachhawaha

Final Decision : Dismissed

Judgement

Parth Prateem Sahu, J

1. Dismissal of an application for grant of interim relief made the petitioner to approach this Court by filing this Writ Appeal wherein the prayer made by the appellant to allow him to continue as Director, Extension Education, Chhattisgarh Kamdhenu University, Anjora, District- Durg (for short, 'Director') beyond 62 years of age was declined.

2. Case of the appellant is that he was appointed as Assistant Professor by Indira Gandhi Krishi Vishwavidyalaya and was initially posted at College of Dairy Technology, Raipur on 25.02.1989. He was subsequently selected as Professor and his services were allocated to newly constituted Chhattisgarh Kamdhenu University in the year 2011. Pursuant to advertisement made by the University in the year 2013 for appointment of various posts including 'Director', he applied for the same and also got selected on 15.01.2015. The period prescribed for holding the post of Director was for a period of 5 years or up to the age of superannuation, whichever is earlier.

3. Post of Director being an administrative post, the appellant taking note of the

regulation that he could not be continued after completion of 62 years of age, filed Writ Petition for quashing Clause 30 of Recruitment and Upgradation of Teachers/Equivalent Cadre and Administrative Posts- 2013 prescribing age of superannuation to be 62 years for the administrative post.

4. Learned Single Judge after taking into consideration the argument advanced by learned counsel for the appellant, as also the provisions of Statute applicable, dismissed his application for grant of interim relief.

5. Learned counsel for the appellant submits that though impugned order is an interim order, but it attains finality of relief sought by him and further that his challenge is with respect to the prescribed age of superannuation as mentioned in Clause 30 of the Statute/Regulation for the Administrative post and so far as the first part of Clause is concerned, ie initially appointment/posting on administrative post is only of five years. He is still having a month to complete the period of five years and therefore, he may be granted relief as sought for by him in Writ Appeal.

6. Learned counsel for the respondents submits that period for holding the administrative post and age of superannuation as prescribed is by way of Statute/Regulation and unless until the said provision is struck down, no benefit could be extended to the appellant after his superannuation on 05.12.2019, ie today. He also submits that appeal itself is not maintainable in view of the Proviso of Section 2 of Chhattisgarh High Court Appeal to Division Bench Act, 2006, Read with Rule 156(10) of the High Court of Chhattisgarh Rules 2007.

7. We have heard learned counsel for the parties. After hearing learned counsel for the respective parties, we are satisfied that no relief can be granted to the appellant in this appeal for more than one reason. Firstly, the impugned order is an interim order passed in Writ Petition and in view of the dictum of the Full Bench of this Court in Writ Appeal No.355 of 2014 (Surit Ram Vs State of Chhattisgarh and another) and connected cases, appeal itself is not maintainable against interlocutory order. Secondly, the impugned relief sought for by the appellant in his Writ Petition is the quashment of Clause 30 of Recruitment and Upgradation of Teachers/Equivalent Cadre and Administrative Posts- 2013.

8. In Recruitment and Upgradation of Teachers/Equivalent Cadre and Administrative Posts- 2013 at Clause 30 it is mentioned that the age of superannuation shall be 62 years for the administrative posts and 65 years for the teaching posts and the posts of equivalent cadre. Post which the petitioner is holding is an administrative post.

9. In Statutes-2013 filed by respondents along with reply to the Writ Petition, at Clause-10 (iii) of Chapter II, it is mentioned in very clear terms that the Director will have the period of 5 years or the age of superannuation (62 years), whichever is earlier.

10. So far there is a Statute prescribing the period for holding the post as well as

the age of superannuation for holding the administrative post, with clause mentioning whichever is earlier and appellant is completing age of 62 years on 05.12.2019. No interim relief can be granted to the appellant in the facts of the case.

11. In view of aforementioned facts and provisions available on record, in our considered view, appeal is sans merit and is accordingly dismissed.