
(2000) 11 MP CK 0010
In the Madhya Pradesh High Court
Case No : Writ Petition No. 518 of 2000

Dr. Shyam Babu Mundhra

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 15-11-2000

Acts Referred:

Madhya Pradesh Regularisation of Ad hoc Appointment Rules, 1986 — Rule 12

Citation : (2001) 1 MPHT 457 : (2001) 1 MPLJ 581

Hon'ble Judges : N.G. Karambelkar, J;Mr. S.P. Srivastava, J

Bench : Division Bench

Advocate : Shri N.K. Mody, for the Appellant;

Final Decision : Dismissed

Judgement

The Court

Heard.

Perused the record.

The petitioner feels aggrieved by the order passed by the respondent-Tribunal whereunder dismissing his claim it has been held that he was entitled to the seniority from the date of the regularisation of his service and not from the date of his initial appointment.

The petitioner had been granted the appointment on 12-3-1975, on a purely temporary basis on the post of Lecturer in Anaesthesia for a period of 6 months or till the availability of a candidate from the Public Service Commission whichever was earlier and posted as Lecturer in the Medical College, Indore. The duration of the period of appointment of the petitioner was extended from time to time and ultimately, the said appointment was regularised under the provisions of the Madhya Pradesh Regularisation of Ad hoc Appointment Rules, 1986. This regularisation of the appointment was granted vide the order dated 4-4-1987.

Under the aforesaid rules, the regularisation granted thereunder is subject to a rider contained in Rule 12 of the said Rules which provides that a person appointed under those rules shall be entitled to seniority only from the date of the order of regular appointment and shall be placed below the persons appointed in accordance with the relevant recruitment rules prior to the appointment of such person under the rules.

It is not in dispute that the appointment of the petitioner to begin with was not in accordance with the statutory rules regulating in the direct appointment as against the post of Lecturer. In the circumstances, therefore, the petitioner belonged to the stream of irregular appointees and could not claim the seniority vis-a-vis those who had been regularly and properly appointed, till his appointment became regular or was regularised by the appointing authority as a result of which his stream joined the regular stream. As pointed out by the Apex Court in its decision in the case of *Shitla Prasad Shukla Vs. State of U.P. and Others*, , at that point of confluence with the regular stream, from the point of time he joined the stream by virtue of the regularisation, he could claim seniority vis-a-vis those who joined the same stream later. The Supreme Court had emphasised that the late comers to the regular stream could not steal a march over the early arrivals in the regular queue.

The controversy identical to the controversy raised in this case had come up for consideration before this Court in case of *Dr. (Mrs.) Neelima Singh Vs. State of M.P. and others* (W.P. No. 1878/2000) decided on 30-10-2000 : 2001(1) M.P.H.T. 3 (NOC). The contention of the petitioner that he was entitled to the seniority from the date of his initial appointment irrespective of the fact that his service had been regularised at a later point of time was also raised in the aforesaid case but was rejected as not acceptable.

Taking into consideration the facts and circumstances brought on record, including those noticed in the impugned judgment passed by the Tribunal, the ratio of the decision of this Court in the case of *Dr. (Mrs.) Neelima Singh* (supra) stands squarely attracted.

In view of what has been indicated hereinabove, no justifiable ground can be said to have been made out for any interference by this Court in the impugned order while exercising the extra-ordinary jurisdiction envisaged under Article 227 of the Constitution of India.

This writ petition is accordingly dismissed in limine.

Writ Petition dismissed.