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**(2012) 11 MP CK 0036**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No. 4121 of 2008 (S)**

Gyanendra Pandey and Another

APPELLANT

Vs

State of M.P. and Another

RESPONDENT

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**Date of Decision : 06-11-2012**

**Acts Referred:**

**Citation : (2012) ILR (MP) 2727**

**Hon'ble Judges : Sanjay Yadav, J**

**Bench : Single Bench**

**Advocate : Akash Choudhary, for the Appellant; Samdharshi Tiwari, G.A. for the State, for the Respondent**

**Final Decision : Allowed**

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## **Judgement**

Sanjay Yadav, J.—Heard. Solitary issue raised vide this writ petition by petitioners who are engaged in election duties during Assembly and Parliament Elections as to whether they are entitled for consideration for absorption/appointment in the State Government Service at par with surplus employees.

2. Since the elementary facts regarding petitioners being deployed for election duties assembly and Parliamentary Elections and are rendered jobless when the elections are over being not disputed the facts of employment, deployment and non-employment of each petitioners are not gone into.

3. The State Government way back in the year 1972 vide circular No. 206/39/1(3)/72 dated 14.4.1972 evolved a policy of giving preference in government employment to various class of person which included surplus employees also.

The circular stipulates:

4. That during course of the application of the policy dated 14.4.1972 doubt arose in the year 1990 as to whether similar benefit of priority of consideration can be extended to such personnels engaged in election duties. To rule out the

doubts.

5. The existence of aforesaid two circulars are not disputed by the respondent State. In paragraph 3 of the return though a contradictory stand is taken -- a usual feature of the State functionaries. However, it is not disputed that persons engaged in election duties have been categorised under "B" Category only for the purpose of providing preferential treatment during the process of recruitment against civil posts.

6. Since there is already a decision taken by the State Government to treat the personnels engaged in election duties as par with the surplus employees of the State and classified as "B" category, the contentions that persons engaged in election duties cannot be treated at par with surplus employees being not in consonance with the clarification issued by the State on 10.9.1991 (quoted supra) is negated. The respondents are directed that as and when the vacancies are notified to be filled from surplus employees, the persons like the petitioner who were engaged in election duties and are categorised as "B" Category would also be afforded the opportunity to participate in such selection, clarification was issued by the General Administration Department vide Circular No. C-9-11/91/3/1 dated 10/9/1991 stating that the personnels engaged in election duties are also entitled to the similar benefits in respect of employment as the surplus employees are. The circular stipulates:

7. This view also find support from the decision in *Akhilesh Shrivastava V. State of M.P. and another* (W.P. No. 3234/2006(s)) decided on 31.10.2006 wherein it was held:

The reason as such are examined by this Court and the Court came to the conclusion that the reasons as assigned by the Collector are not getting any support in terms to the circular Annexure P/2 dated 10th September, 1991. The circular dated 10th September, 1991 (annexure P/2) itself indicates that persons those who are earlier deployed for the election work and after when the said work was over, the employees as such who are terminated shall be treated as "B" grade employee and shall also be given preference in the regular appointment.

8. In view whereof while setting aside the communication dated 7.11.2007 it is directed that in future whenever the posts are notified to be filled from surplus employees the petitioner and others who are similarly situated should also be given the opportunity to participate in selection. The petition is allowed to the extent above. No costs.