

(2011) 12 MP CK 0005
In the Madhya Pradesh High Court
Case No : Writ Petition No. 7812 of 2011

Punit Chauhan and others

APPELLANT

Vs

State of Madhya Pradesh and others

RESPONDENT

Date of Decision : 20-12-2011

Acts Referred:

Constitution of India, 1950 — Article 14
Madhya Pradesh Gram Panchayat Raj Evam Gram Swaraj Adhiniyam, 1993 — Section 51(2), 53(1)
Madhya Pradesh Panchayat Adhyapak Samvarg (Employment and Conditions of Service) Rules, 2008 — Rule 8
Madhya Pradesh Police Executive (Non-Gazetted) Service Recruitment Rules, 1996 — Rule 8

Citation : (2011) 12 MP CK 0005

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sujoy Paul, Judge

1. These matters are taken up on the request of the State Government. With the consent of parties, the matters are finally heard.

This order will dispose of Writ Petitions No.7812/2011, 6645/2010, 8196/2011, 8303/2011 and 8327/2011.

The facts are taken from Writ Petition No. 7812/2011.

The petitioners were initially appointed on contract basis. However, admittedly they were subsequently absorbed by the respondents and presently enjoying the status of "Adhyapak" in the cadre of Adhyapak. Although initially they were permitted to participate in the written examination, by communication dated 28.6.2011 it was informed that they are employees of local body constituted under Panchayat Raj Evam Gram Swaraj Adhiniyam, 1993 (hereinafter referred to as the "Adhiniyam"), therefore, they are not entitled for exemption in age

limit. This order dated 28.6.2011 is challenged in this batch of petitions.

2. Shri Shivendra Singh Raghuvanshi and other learned counsel submit that as per Section 51(2) of the Adhiniyam, it is clear that certain function of the State Government was entrusted to Janpad or Jila Panchayat, as the case may be, and while discharging those functions, the said Panchayat acts as an agent of the State Government. By placing reliance on Section 53(1)(b) of the said Adhiniyam, Shri Raghuvanshi submits that the ultimate control over the affairs of the petitioners is in the hand of the State Government. To further elaborate, he placed reliance on Rule 8 of the Madhya Pradesh Panchayat Adhyapak Samvarg (Employment and Conditions of Service) Rules, 2008 (hereinafter referred to as the "2008 Rules") to submit that the petitioners appointed under these rules are discharging duties under the administrative and disciplinary control of the Panchayat but are in fact working under the disciplinary and appellate authorities, who are State Government officers. Thus, in nutshell, they are State Government employees for all purposes.

3. Shri Raghuvanshi further submits that the action of the respondents in choosing certain bodies for grant of age relaxation and not providing this benefit to the petitioners is violative of Article 14 of the Constitution of India.

4. Per Contra, Shri M.P.S. Raghuvanshi, learned Additional Advocate General submits that 2008 Rules and even the provisions relied upon by learned counsel for the petitioners do not lead to a conclusion that petitioners are Government employees. He submits that the recruitment for Sub-Inspector is being done under Madhya Pradesh Police Executive (Non-Gazetted) Service Recruitment Rules, 1996 (hereinafter referred to as the "1996 Rules"). By placing reliance on Rule 8 of 1996 Rules, learned Additional Advocate General submits that the age relaxation is available only to the permanent servants of the State Government. In addition to that, age relaxation is given to certain Ex-Servicemen, Retrenched Government Servants, widow, destitutes and divorced women, green card holders, Scheduled Caste Backward Class, Vikram Awardees and employees of M.P. State Corporation/Board and also to Homeguards. He submits that the petitioners cannot be treated as employees of State Government. They even on absorption are employees of the local body and, therefore, impugned order is rightly passed by the State Government.

5. I have heard the parties at length and perused the record.

6. A Division Bench of this Court in Arun Singh Bhadouriya Vs. State of M.P. and Others, , held that Samvida Shikshak appointed by Gram Panchayat or Jila Panchayat is not a Government servant and is not entitled for age relaxation.

7. Even if the petitioners are confirmed/absorbed as Adhyapak, their status is still as employees of the local body. A microscopic reading of Sections 51(2) and 53(1)(b) of the Adhiniyam and Rule 8 also show that they are still employees of a local body. Rule 8 of 2008 Rules makes it crystal clear that the petitioners are required to discharge their duties under the administrative and disciplinary

control of Jila Panchayat or Janpad Panchayat, as the case may be. Merely because their disciplinary and appellate authorities are State Government officers, that does not give them status of a Government employee. Thus, a complete reading of the Adhiniyam and the Rules makes it crystal clear that the petitioners are not the Government employees of State of Madhya Pradesh. Instead, they are the employees of Panchayat. In a similar matter, i.e., Writ Petition No. 19301/2011 the Principal Seat has dismissed the petitions by relying on Arun Singh Bhadoriya's case (supra). So far the attack of petitioners on the rule is concerned where it is alleged that the action of the Government in providing age relaxation to the employees of certain bodies but not extending it to the Panchayat is bad in law, I am afraid that this question can be examined in this petition. Legislature in its wisdom has prepared those rules. Constitutional validity of those rules are not called in question in this petition. Thus, there is no occasion for this Court to address the aforesaid question and examine the correctness of the said action of the Government in providing age relaxation to certain bodies and not extending the same in favour of Panchayat. Thus, this argument cannot be accepted in these petitions.

8. In the light of aforesaid analysis, I find no reason to deviate from the said decision of Principal Seat. For the reasons stated above, the petitions are devoid of merits and substance and are hereby dismissed. Needless to mention that the ad interim relief granted in all these petitions stand vacated.