

(2008) 10 PAT CK 0019

In the Patna High Court

Case No : C.W.J.C. No. 10445 of 2005 and C.W.J.C. No. 3718 of 2003

Rajendra Prasad Dubey

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-10-2008

Acts Referred:

Citation : (2008) 10 PAT CK 0019

Judgement

J.N. Singh, J.—C.W.J.C. No. 10445 of 2005 has been filed by the petitioner for quashing of notification dated 29.8.2003 (Annexure-1) issued from the Department of Health (Medical Education, Family Welfare and Indigenous Medicine), notifying that the services of the petitioner along with others were not found fit for absorption pursuant to the report of the Screening Committee, and therefore, their services are dispensed with from the date of issue of the notification.

2. Case of the petitioner as per his pleadings is that he was appointed as temporary Professor by the Secretary of the Dhanwantari Ayurvedic College, Buxar by order dated 30.7.1973 vide Annexure-3. Petitioner joined the service and continued to perform his duties. By subsequent order dated 29.8.1973, as contained in Annexure-4, he was appointed as Principal Incharge by the Secretary. Further case of the petitioner is that while he was performing his duties in the College, his case was placed before the Expert Committee of the College which recommended for his appointment as Lecturer in the College, which was placed before the Managing Committee. The Managing Committee accepted the recommendation of the Expert Committee and resolved to appoint petitioner as Lecturer in the faculty of Diagnosis and Surgery. Accordingly, necessary orders were issued by the Secretary of the College, vide Annexure-5 dated 13.3.1978 appointing him as Lecturer of the college in the faculty of Diagnosis and Surgery subject to approval of the University. Subsequently, his case was placed before the Managing Committee for making his services permanent and as per resolution of the Managing Committee, orders were issued vide Annexure-6 dated 25.2.1981 making his services permanent as lecturer

with effect from the date of his appointment i.e. 13.3.1978. By a subsequent order, pursuant to a decision of the Managing Committee dated 14.2.1982, petitioner was promoted as Reader in the Department vide Annexure-7 dated 23.2.1982. On the basis of yet another decision of the Managing Committee, petitioner was made Head of Department-cum-Reader vide order contained in Annexure-8 dated 7.1.1983.

3. While petitioner was working in the College, it was a privately managed College. The State Government came up with an Ordinance, namely, Bihar Private Medicine (Indigenous Medicine System) College taking Over Ordinance which was later on made an Act in 1985. This Act provided for taking over of the Private Indigenous Medicine Medical Colleges which were recognized and affiliated with the respective Universities. In exercise of powers under the said Act, the College in question, namely, Dhanwantari Ayurvedic College Hospital, Buxar was taken over by the Government with effect from 1.6.1986 vide notification contained in Memo No. 840 (Indigenous Medicines) dated 9.12.1986. As a consequence of the said take over, petitioner's services stood taken over by the Government on ad hoc basis and he continued in the College as such.

4. As per provisions of the Act, Screening Committee was constituted to examine the service conditions of the teaching as well as non-teaching staff of the College for their absorption in the College Service. The Screening Committee considered the case of the petitioner and others and submitted its report. The report of the Screening Committee was considered by the Government. In the report, Screening Committee had considered the case of the petitioner and vide serial No. 17 of the report it recommended to accept the appointment of the petitioner as Demonstrator with effect from 13.3.1978 and absorb his services as Reader as on the date of take over of the College. The said report of the Screening Committee was accepted by the Department and a notification was issued vide Annexure-9 dated 2.1.1992 regularizing the services of the petitioner and others as per recommendation of the Screening Committee. Consequent notification was issued in the State Gazette on 15th January, 1992, as contained in Annexure-10, publishing the said notification of the State Government with the recommendation of the Screening Committee in respect to petitioner and others.

5. Petitioner superannuated from service in the capacity of Head of Department-cum-Reader with effect from 30.6.2002. By various letters annexed as Annexure-11 series, petitioner intimated about his superannuation and also made request to the concerned authorities for payment of his retrial dues. Vide Annexure-12 dated 9.7.2002 petitioner submitted an application for release of his Provident Fund. Vide Annexure-13 dated 9.8.2002 he submitted his pension papers. Vide Annexure-14 some amount of provident fund was sanctioned to the petitioner and some amount of Group Insurance was also paid. However, since the entire retrial dues of the petitioner had not been paid to him, he filed representation before the Secretary of the Department on 11.2.2003, as contained in Annexure-15.

6. As the retiral dues of the petitioner was not finally sanctioned and paid to him, he moved this Court through C.W.J.C. No. 3718 of 2003 which is being disposed of by this common order. In the said writ application, respondents took a stand that in a fresh consideration the Screening Committee had not found the services of the petitioner as fit for absorption and therefore his services were not absorbed, and hence, he was not entitled for pensionary benefits. Petitioner filed I.A. in the said writ application challenging the said order and also sought liberty to file fresh writ application in the matter. The said writ application, namely, C.W.J.C. No. 3718 of 2003 was, therefore, adjourned for six months by order dated 6.7.2005 to enable the petitioner to file fresh writ application challenging the said subsequent decision of the State Government. Hence the present writ application, namely, C.W.J.C. No. 10445 of 2005 was filed and, therefore, the two cases were made analogous by order dated 14.3.2007 passed in the earlier writ application.

7. In C.W.J.C. No. 10445 of 2005 the petitioner has pleaded in paragraph 18 that other persons have been paid retiral benefits, orders in respect of whom have been annexed as Annexures-16, 16/1 and 16/2. Petitioner has brought on record of this writ application that there was another report of the Screening Committee submitted on 18.6.1999 pursuant to which a show cause notice dated 29.5.2000, as contained in Annexure-17, was issued to him. Petitioner replied to the show cause vide Annexure-17/1 dated 24.6.2000. The matter remained pending at that stage when petitioner superannuated on 30.6.2002. After his superannuation, a second show cause was issued to him vide Annexure-18 dated 11.12.2002, to which petitioner replied through Annexure-18/1 dated 21.1.2003. However, ultimately, notification, as contained in Annexure-1 was issued rejecting the case of the petitioner for regularization and dispensing with his services from the date of issue of the notification.

8. Contention of the petitioner is that his services were absorbed and regularized finally vide Annexure-9 which was duly notified in the official gazette vide Annexure-10. Thus, so far as case of the petitioner is concerned, matter stood concluded and he stood finally absorbed in the services of the Government and he became a regular Government servant. Hence in the capacity of a regular Government servant, he retired from service and having completed the qualifying period of service, he was entitled to all the pecuniary benefits as admissible to him in that capacity. It has been further contended that when the Screening Committee took up the matter of screening of services of teaching and non-teaching employees of the College afresh, it did not at all consider fresh appointment of the petitioner with effect from 13.3.1978 on the recommendation of the expert Committee and pursuant to the resolution of the Managing Committee of the College. It was pointed out by learned senior counsel for the petitioner that from the extract of the subsequent report of the Screening Committee as enclosed with the show cause notice (Annexure-17) it will be evident that the Screening Committee only considered the appointment of the petitioner in 1973 and did not find it regular for want of requisite experience for

appointment as Lecturer and in that light only the Screening Committee recommended his case as not fit for absorption in the services of the College. Learned senior counsel for the petitioner pointed out that the consideration made by the Screening Committee on the earlier occasion was completely ignored and overlooked by the Screening Committee in its subsequent consideration, and therefore, vital aspect of the service career of the petitioner was not considered by the Screening Committee at all.

9. He further submitted that in view of non-consideration of his fresh appointment in 1978 on the recommendation of the duly constituted expert Committee and pursuant to the resolution of the Managing Committee, the report of the Screening Committee in its second consideration and the decision of the respondents pursuant thereto stood vitiated, and therefore, refusal by the State Government to absorb his services and dispensing with his service with effect from the date of notification were fit to be quashed. He further submitted that since the service of the petitioner has been dispensed with by the respondents with effect from the date of notification i.e. 29.8.2003, he was entitled to the benefits of his continuing in service with the respondents till that date, as admissible to him in law. Hence, he concluded that in view of the prospective nature of the impugned notification (Annexure-1), petitioner has to be treated as having superannuated from service of the respondents with effect from 30.6.2002 making him entitled for all pecuniary benefits on account of the same, as may be admissible to him in law.

10. One counter affidavit has been filed in this case on behalf of respondent Nos. 1 to 3 sworn by the deputy Director (Homoeo) Directorate of Indian Medicine, Bihar, Patna. A supplementary counter affidavit has also been filed on behalf of respondent Nos. 1 to 3 sworn by the Deputy Director (Ayurved) in the Directorate of Indigenous Medicine, Bihar, Patna. With the counter affidavit a copy of the Ordinance has been enclosed as Annexure-A. It has been admitted that the Screening Committee submitted its report and final notification on the basis of the said report was issued which was published in the gazette, as contained in Annexure-10. However, it is stated that constitution of the Screening Committee and the said gazette notification was challenged in this Court through various writ applications. This Court did not find constitution of the Screening Committee in accordance with law, and therefore, the said constitution of the Screening Committee and consequent decision on the basis of its recommendation was quashed and directions were issued for fresh constitution of the Screening Committee by including the Health Commissioner as Chairman of the Committee and representative of the Central Council of Indigenous Medicine as Member. As a result of the same, the Committee was reconstituted as per direction of the Court and it took up the exercise of screening of the cases of the employees of the College and submitted its recommendation. It is stated in the counter affidavit that this Committee did not consider the cases of all the employees and only considered the cases of those who were petitioners in the various cases filed in the Court. This report of the second Screening Committee

was also challenged in this Court through a contempt application being MJC No. 2960 of 1995. In the said MJC application it was contended that the orders passed by this Court in the earlier writ applications had not been complied with in letter and spirit inasmuch as the cases of all the employees of the College have not been considered. In the said MJC application, the State Government took a stand that it would constitute another Committee for consideration of the cases of all the employees of the College. On such assurance, the said MJC application was disposed of vide order dated 22.5.1997, as contained in Annexure-B to the counter affidavit. In the circumstances, vide resolution No. 475 (IMS) dated 7.8.1998 yet another Screening Committee was constituted which considered the cases of all the employees of the College in the background of relevant provisions of Bihar Indigenous Medicine Educational Institution (Regularization and Control) Act, 1981 and the provisions of Bihar State Universities Act. This third Committee submitted its report dated 18.6.1999 vide Annexure-C. This report was reviewed in the Department on 12.12.2001 and after due approval from the Cabinet Annexure-1 was issued by which, in view of the findings and recommendations of the third Screening Committee, the services of the petitioner was dispensed with.

11. Through the supplementary counter affidavit filed on behalf of respondent Nos. 1 to 3, this Court has been informed that the said impugned notification, as contained in Annexure-1 to the main writ application, was also challenged in this Court through various writ applications led by C.W.J.C. No. 10301 of 2003. The said batch of writ applications was disposed of vide order dated 11.3.2005, a copy whereof has been annexed as Annexure-D to the supplementary counter affidavit (also reported in Dr. Satyadeo Pandey and Others Vs. The State of Bihar and Others, . By the said judgment, matter was remitted back to the State Government for fresh consideration. L.P.As. were filed by the State of Bihar against the said judgment which were, however, dismissed vide order dated 9.11.2006, as contained in Annexure-E to the supplementary counter affidavit.

12. It has been contended that a contempt application was filed for compliance of the said order passed by the learned single Judge in the batch of writ applications. However, while the contempt application was pending, yet another Screening Committee was constituted which submitted its report on 23.7.2007 vide Annexure-F. In this report also petitioner was not found fit for absorption. This report of the Screening Committee was accepted by the State Government and consequent notification was also issued vide Annexure-G dated 17.10.2007 and petitioner's name was not included in the list of absorbed employees of the College. In the circumstances, when the contempt application was taken up by this Court on 27.2.2008, this Court noticed the fact that the dispute raised by the petitioners could not be decided in contempt proceeding, and therefore, contempt application was dismissed with liberty to the aggrieved employees to move appropriate authority or this Court in appropriate proceeding to seek relief in accordance with law.

13. The facts noticed above as emerging from the respective pleadings of the parties show that the matter of consideration of cases of the employees of the College for their absorption into regular service under the provisions of Section 6(3) of the Act has not finally come to an end. Liberty granted by this Court in the contempt application to challenge the later decision of the respondents of taking over services of only 66 employees by notification dated 17.10.2007 shows that the persons whose services have not been absorbed are still aggrieved and are agitating their claim in accordance with law. Although it has not been brought on record as to whether after disposal of the MJC application any writ application has been filed in this Court against the said notification dated 17.10.2007 or not, but in view of the developments in the case, it is most likely that same must have been challenged in this Court by some party aggrieved by the said decision of the State Government, as contained in Annexure-G to the supplementary counter affidavit.

14. Leaving aside the dispute going on between the employees whose services have not been absorbed under Notification dated 17.10.2007, case of the petitioner has to be considered on its own merit as the petitioner in this writ application has specifically challenged the notification (Annexure-1) dispensing with his services not finding him fit for regularization as per report of the second Screening Committee. It is not in dispute that the petitioner was in service of the College on the date of take over of the College and he was allowed to continue in service from which he finally superannuated with effect from 30.6.2002. Therefore, it has to be considered as to in what capacity petitioner continued in the College with what terms and conditions after take over of the College in terms of the provisions of the Act. In this context, provisions of Section 6 of the Act has to be looked into and examined to find out with regard to the status of the petitioner in the College after its take over till his retirement. For this purpose, Section 6 of the Act is reproduced herebelow for easy reference:

6. Determination of terms of the teaching staff and other employees of the College : (1) From the date of the notified order, all the staff employed in the College shall cease to be the employees of the College body:

Provided that they shall continue to serve the College on ad hoc basis till a decision under Sub-section (3) and (4) of this section is taken by the State Government.

(2) The State Government will set up one or more committees of experts and knowledgeable persons which will examine the biodata of each member of the teaching staff and ascertain whether appointment, promotion or confirmation was made in accordance with the Act, Statute or Regulation of the University concerned and in keeping with the guidelines laid down by the Indian Medical Council of India and take into consideration all other relevant materials including length of his service in the college, and submit its report to the State Government.

(3) The State Government on receipt of the report of the committee or committees, as the case may be, will decide in respect of each member of teaching staff on the merits of each case whether to absorb him in Government service or to terminate his service or to allow him to continue on an ad-hoc basis for a fixed term on contract and shall, where necessary, re-determine the rank, pay, allowances and other conditions of service.

(4) The State Government shall similarly determine the terms of appointment and other conditions of service of other categories of staff of the college on the basis of facts ascertained either by a committee or by an officer entrusted with the task and the provisions of Sub-sections (2) and (3) of this section shall apply mutatis mutandis to such cases.

15. Sub-section (2) of Section 6 as reproduced hereinabove shows that the Committee constituted by the State Government has to examine the bio-data of each member of the teaching staff and ascertain whether appointment, promotion or confirmation was made in accordance with the Act, Statute or Regulation of the University concerned and in keeping with the guidelines laid down by the Indian Medical Council of India and take into consideration all other relevant materials including length of his service in the College, and submit its report to the State Government. Sub-section (3) provides that on receipt of the report the State Government has to decide in respect of each member of teaching staff whether to absorb him in Government service or to terminate his service or to allow him to continue on an ad-hoc basis for a fixed term on contract and was to re-determine the rank, pay, allowances and other conditions of service of such staff, if necessary. From the reading of Sub-section (1) with its proviso, it appears that till the time of such determination by the State Government, the staff of the College were to continue in the College on "ad hoc basis".

16. It is not in dispute that final decision was taken in the matter of the petitioner for the first time by the impugned notification dated 29.8.2003 which dispensed with the services of the petitioner from the date of issue of notification. Prior to this notification, on the report of the earlier Screening Committee, the services of the petitioner stood absorbed by Annexure-9 dated 2.1.1992 and duly published in the State Gazette in its issue dated 15th January, 1992. The contention of the learned senior counsel for the petitioner that the matter with regard to the petitioner stood finally concluded by issue of Annexures-9 and 10 by which his services were finally absorbed and he became regular employee of the State Government was fit to be accepted, but for the fact that the said notification was challenged by some of the incumbents aggrieved by the same in this Court and the notification was set aside and the respondents were directed to reconstitute the Committee and re-undertake the exercise of screening in terms of Sub-section (2) of Section 6 of the Act afresh. Thus, with the remittance of the matter back to the State Government by this Court, status of the petitioner and other employees absorbed by Annexures-9

and 10 stood reverted back to the status of ad hoc employees. That status of the petitioner continued till his date of retirement as, admittedly, no other notification was finally issued by the Department absorbing or dispensing with the services of the petitioner till the date of his retirement. Therefore, this cannot be disputed that because of the intervention of this Court quashing the notification, as contained in Annexures-9 and 10, petitioner again became ad hoc employee and he continued in ad hoc status from the date of take over of the College till his date of retirement. Since Annexure-1 was issued dispensing with the services of the petitioner from the date of issue of notification, which was much after his retirement, his ad hoc status in the College from the date of take over of the College till the date of his retirement does not get affected. Hence, now it has to be considered as to whether, enjoying the status of ad hoc employee of the State Government, petitioner was entitled to any pensionary benefits in terms of the Bihar Pension Rules.

17. The word "ad hoc" by itself connotes something purely temporary, stopgap, created for exigency of the situation and for particular purpose and it is always used in contra-distinction to something regular or permanent. The meaning and definition of the word "ad hoc" in the dictionary and judicial pronouncements clearly show that ad hoc appointment is always stop-gap, fortuitous or purely temporary and is not a regular appointment and does not confer any enforceable right to the holder of the post. It is always for special or particular purpose and meant to last for a particular limited period. Only in cases where appointment is made after following the prescribed procedure, in conformity with Articles 14 and 16 of the Constitution of India, and the same continuing for quite a long period without any specific period indicated in the order, the word "ad hoc" used in the appointment letter may not preclude the holder of the post to claim that for all practical purposes his appointment was a regular appointment and he had right to claim the benefits flowing from the same.

18. A harmonious reading of Sub-sections (1), (2) and (3) of Section 6 of the Act clearly demonstrates that conferring of status of ad hoc employees to the staff of the College as a consequence of its take over was for the purpose of scrutiny of the validity and legality of their appointments and other service conditions for the purpose of their absorption in Government service. Thus, this "ad hoc" status granted under proviso to Sub-section (1) of Section 6 to the staff of the College was a prelude to his getting status of an employee of the State Government upon his absorption conferring any right upon him to claim the benefits of Government servant. Bihar Pension Rules, 1950 makes a Government servant in temporary or officiating capacity also entitled for counting his services for pension if the same is followed by permanency or he completes more than 15 years of continuous service in temporary capacity. However, period of such temporary or officiating appointment of a Government servant continuing for more than 15 years or culminating into permanency has to follow upon his appointment in Government service as per procedure established under the law in conformity with Articles 14 and 16 of the Constitution of India. This benefit

cannot confer upon an employee whose very entry into the service and his service conditions are subject to scrutiny and approval. For this very reason, the employees of the College were made to continue in the College on "ad hoc basis" only. It is true that if the petitioner would have been absorbed in the Government service at any point of time, prior to his superannuation or even after that, he would have got all the benefits of a Government servant for services rendered in the College but till the time his services were not absorbed, he could not be treated as a Government servant for any purpose conferring upon him any right to claim the benefits of his superannuation from service and claim retirement benefits under the provisions of Bihar Pension Rules and other law applicable in the case of a Government servant. Thus, the submissions of the learned senior counsel for the petitioner to the effect that since the petitioner superannuated from the services of the College, he was entitled for pensionary benefits is not fit to be accepted. Since the services of the petitioner was never absorbed in terms of Sub-section (3) of Section 6 of the Act, he cannot be treated as a Government Servant for the purpose of payment of his retirement benefits under the Rules.

19. However, question arises as to whether petitioner received proper consideration of his case by the second Screening Committee for the purpose of decision by the State Government with regard to his absorption, or otherwise, in the State Government service in terms of Section 6 or not. Sub-section (2) of Section 6 of the Act lays down that the Committee has to examine the bio-data of each member of teaching staff and ascertain whether the appointment, promotion or confirmation was made in accordance with the Act, Statute or Regulations of the University concerned and in keeping with the guidelines laid down by the Medical Council of India and taking into consideration all other relevant materials including length of service in the College and submit its report to the State Government for a decision by the State Government in terms of Sub-section (3) of Section 6 of the Act.

20. From the facts of the case and the service history of the petitioner noticed above, it is apparent that the petitioner was, for the first time, appointed in the service of the College on 30.7.1973. However, it is also established that the petitioner's case was considered by the Expert Committee of the College afresh and on its recommendation the Managing Committee of the College resolved to appoint the petitioner as a Lecturer afresh in the faculty of Diagnosis and Surgery and necessary orders to that effect were issued vide Annexure-5 dated 13.3.1978. The first Screening Committee, which took up the exercise of screening the service conditions of the teaching staff of the College, noticed the fresh appointment of the petitioner on the post of Lecturer on 13.3.1978 also, along with his first appointment in 1973. It noticed that the petitioner was twice appointed, but his first appointment on the post of Professor on 30.7.1973 was not in accordance with law. It also noticed that his appointment on 13.3.1978 on the post of Lecturer was not regular and in fact he ought to have been appointed on that date as Demonstrator. Therefore, accepting his appointment from 13.3.1978 on the post of Demonstrator, it recommended that the services of the

petitioner could be accepted as Reader as on the date of take over of the College. This was accepted, by the State Government and formal notification of absorption of the services of the petitioner and others was issued vide Annexures-9 and 10. However, when upon remand from this Court, the second Screening Committee took up the exercise of re-screening of service conditions of the teaching employees of the College, it is apparent that, it did not consider at all the second appointment of the petitioner made afresh by order dated 13.3.1978, as contained in Annexure-5, and his consequent continuance thereafter in the College. From the extract of the report of the Second Screening Committee enclosed with Annexure-17, the show cause notice issued to the petitioner, it is apparent that the Screening Committee only took into account the first appointment of the petitioner in 1973. It held that the petitioner had no teaching experience at that point of time and therefore, he was not fit to be appointed as a Lecturer on that date. This Screening Committee did not at all take into account that the appointment of the petitioner in 1978 by Annexure-5 was altogether a new transaction and unrelated with his appointment in 1973. It was not the follow up action or in continuity to the said appointment. Therefore, even if the appointment of the petitioner in 1973 was not accepted by the Screening Committee as in accordance with law, the second Screening Committee was obliged to consider the appointment of the petitioner made afresh in 1978 by the Managing Committee of the College on the recommendation of the Expert Committee for whatever worth it was. The first Screening Committee had taken that aspect of the service of the petitioner into account. Therefore, the second Screening Committee was not at liberty to completely overlook the same and arrive at its conclusion only on the basis of nature of appointment of the petitioner in 1973.

21. Learned senior counsel for the petitioner, in this context, has referred to a judgment of the Supreme Court in the case of Ram Sarup Vs. State of Haryana and Others, to contend that even if the initial appointment of the petitioner in 1973 was found not in accordance with law due to want of experience, his subsequent appointment in the Institution had to be treated as valid as in fact he had acquired experience of three years in the College on the basis of continuance in the College from 1973 till 1978.

22. While considering the case of the petitioner on the basis of his fresh appointment in 1978, the second Screening Committee was obliged to take into account this aspect of the matter also which it completely failed to do. Hence it can be clearly held that the second Screening Committee did not perform its function in respect of the petitioner in terms of Sub-section (2) of Section 6 of the Act which required the Committee to take into account subsequent transactions and all other relevant materials including length of his service in the College also, and submit a comprehensive report to the State Government for consideration. Consequently, it can also be clearly held that consequent decision of the State Government by Annexure-1 dispensing with the services of the petitioner was in ignorance of the materials and circumstances for consideration

of the case of the petitioner and thus was vitiated and not sustainable in law.

23. However, in view of the discussions and findings above, while holding that the petitioner was not entitled to any pecuniary benefits upon his retirement, for his continuance in the College on "ad hoc basis" in terms of Section 6 of the Act, Annexure-1 can be quashed by this Court, so far as it concerns the petitioner, on the ground of non-consideration of the case of the petitioner on the basis of relevant materials of his service career and relevant orders issued in his respect by the Management of the College prior to its take over, but for the fact that it has been brought on record by the respondents that the impugned notification (Annexure-1) was also challenged in this Court through various writ applications led by C.W.J.C. No. 10301 of 2003 and by a detailed judgment dated 11.3.2005 (Annexure-D to the supplementary counter affidavit) matter was once again remitted back to the State Government for fresh consideration. Hence, in the eye of law, in view of the said judgment of this Court, Annexure-1 has no existence and, therefore, it is needless to pass any specific order for quashing of the same in respect of the petitioner. It has also come on record that thereafter, yet another Screening Committee was constituted which submitted its report on 23.7.2007 which was accepted by the State Government and consequent notification was issued vide Annexure-G dated 17.10.2007. As noticed above, the said notification also appears to be in controversy and in the MJC matter liberty has been granted to the aggrieved employees to challenge the same in accordance with law. Hence in the circumstances, it will suffice to quash the findings and recommendations of the second Screening Committee dealing with the case of the petitioner as enclosed with the show cause notice to the petitioner, as contained in Annexure-17 and direct the respondents to get the case of the petitioner and his entire service career examined afresh by the Screening Committee and take a final decision afresh in respect of the petitioner in the matter of his absorption in the service of the State Government in accordance with law.

24. In the circumstances, the recommendation of the second Screening Committee in respect of the petitioner as enclosed with the show cause notice to the petitioner, as contained in Annexure-17, is hereby quashed. Since the consequential notification (Annexure-1) already stands quashed by this Court by its judgment dated 11.3.2005, the State Government is hereby simply directed to get the case of the petitioner examined afresh by appropriate committee or authority for consideration of his case for absorption in the State Government service in accordance with law and in terms of the provisions of the Act. It is needless to say that in case the petitioner's services are ultimately found fit to be absorbed in the State Government service, consequential notification shall be issued with necessary orders for payment of all pecuniary benefits to him in accordance with law. All the exercise in this respect shall be completed by the respondents within three months from the date of receipt/production of a copy of this order.

25. In the result, C.W.J.C. No. 10445 of 2005 is disposed of in terms of the observations and directions made hereinabove.

26. Since it has been held hereinabove that as long as the petitioner continued in the status of an ad hoc employee pending screening of his case by the respondents in terms of Section 6 of the Act, he is not entitled to any pecuniary benefits on the basis of his superannuation from service of the College, C.W.J.C. No. 3718 of 2003 fails and is hereby dismissed.