
(2015) 02 MP CK 0045
In the Madhya Pradesh High Court
Case No : Writ Petition No. 5437/2009

Shobhite Upadhyay

APPELLANT

Vs

State of MP and Others

RESPONDENT

Date of Decision : 19-02-2015

Acts Referred:

Citation : (2015) 02 MP CK 0045

Hon'ble Judges : Rohit Arya, J.

Bench : Single Bench

Advocate : M.S. Rana, for the Appellant; Bhagwan Raj Pandey, Government Advocate, Advocates for the Respondent

Final Decision : Allowed

Judgement

Rohit Arya, J.—Petitioner was appointed as Assistant Professor of English under Rule 13(5) of the Madhya Pradesh Educational Service (Collegiate Branch) Recruitment Rules, 1967 (hereinafter referred to as "the Rules of 1967") on the basis of merit consequent upon selection through advertisement vide order dated 8/11/1989 in the UGC pay-scale and joined on 26/12/1989 at Government Girls College, Datia. At the time of filing of this petition, the petitioner was posted at Government (Adarsh) Science College, Lashkar, Gwalior. As such, petitioner is serving on the aforesaid post under the Department of Higher Education, Government of M.P. Petitioner's continuance on the aforesaid post is followed by her selection by Public Service Commission vide order dated 18/3/1994.

2. As per the circular of the Department of Higher Education, Government of M.P., dated 11/10/1999, Assistant Professor possessing M.Phil degree is entitled for senior grade (3000-5000/10,000-15,200) pay-scale after completion of five years of service provided he has attained one orientation and one refresher course. Likewise, after completion of ten years of service and attaining two more refresher courses he is entitled to get selection grade (12,000-18,300) pay-scale.

3. Petitioner has completed five years of service on 26/12/1994. She was

awarded degree of M.Phil from Meerut University in 1990 and Doctor of Philosophy in 2003 from Mahatma Jyotiba Phule Ruhelkhan University, Bareilly (UP) and completed UGC orientation course from Dr. Harisingh Gour University, Sagar, besides three refresher courses from the said university, UGC Lucknow and KRG Post Graduate College, Gwalior respectively. As such, petitioner claims senior grade w.e.f. 26/12/1994. Likewise, petitioner has completed ten years of service in December, 1999, hence, she claims selection grade of pay w.e.f. 26/12/1999. Whereas, petitioner has been granted senior grade w.e.f. 18/3/1999 and selection grade w.e.f. 22/9/2003 vide orders dated 15/4/2005 and 18/4/2007 respectively on record as Annexures P/1 and P/2.

4. Respondents by filing counter-affidavit have not disputed the aforesaid facts and the sole contention advanced is that against the judgment rendered by the Division Bench of this Court under similar circumstances, SLP has been preferred before the Supreme Court and prayed that petitioner cannot be held entitled to for the judgment passed by the Division Bench unless SLP filed by the State Government is dismissed by the Supreme Court.

5. The similar controversy had arisen before this Court and answered by the Division Bench in the case of Dr. (Smt.) Seema Raizada vs. State of M.P. and others in Writ Petition No. 4863/2011 decided on 10/8/2005. The aforesaid judgment was confirmed by the Supreme Court dismissing the SLP filed by the State Government.

6. In the aforesaid judgment the Division Bench has ruled that the Assistant Professors appointed under Rule 13 (5) of the Rules of 1967 as emergency appointees in accordance with the procedure prescribed are entitled to reckon the length of service from the date of their initial appointment for the purpose of qualifying the service for grant of senior scale and selection grade. Similar orders have been passed by the Single Bench in Writ Petition No. 6350/2006 confirmed by the Division Bench in Writ Appeal No. 528/2008 vide order dated 7/5/2009.

Pursuant to the aforesaid judgments, eligible Assistant Professors appointed under Rule 13(5) of the Rules of 1967 have been extended benefit of the aforesaid judgments. Under such circumstances, there is no reason to deny the benefit of judgments rendered by this Court (Supra) to the petitioner. Accordingly, petitioner is held entitled for senior grade w.e.f. 26/12/1994 and selection grade w.e.f. 26/12/1999 maintaining parity with the similarly situated Assistant Professors working with the Department of Higher Education, Government of M.P., in different Government colleges. Respondents are directed to accord the aforesaid benefit to petitioner and pay difference of arrears of pay within a period of two months from the date of order passed today.

With the aforesaid modification in the impugned orders Annexure P/1 and P/2 and directions, this writ petition stands allowed.