
(2013) 10 MP CK 0097

In the Madhya Pradesh High Court

Case No : Writ Petition No. 11641 of 2010

Vasant Kumar Baghel

APPELLANT

Vs

State of MP and Others

RESPONDENT

Date of Decision : 28-10-2013

Acts Referred:

Citation : (2014) LabIC 162

Hon'ble Judges : Rajendra Menon, J

Bench : Single Bench

Advocate : P. Pareek, for the Appellant; D.K. Bohre, Learned PL for the Respondents/State, for the Respondent

Final Decision : Dismissed

Judgement

Rajendra Menon, J.—Petitioner has filed this writ petition on 20th August, 2010, when he was 61 years of age and has challenged the proposed action of the respondents as contained in Annexure-P2 dated 16.4.2010, by which the petitioner was proposed to be retired on 31.8.2010 on completing the age of 62 years. It is the case of the petitioner that in the State of MP, the age of retirement of teachers working in the Education Department has been enhanced from 62 to 65 years and petitioner, who is working as a Lab Technician is also entitled to work upto the age of 65 years. It is stated by the petitioner that from time to time, the age of retirement of teachers working in the Higher Education Department was enhanced and vide order Annexure-P3 dated 10.4.1997, when the age of retirement of teachers were enhanced from 58 to 60 years, a circular was issued by the State Government treating Lab Technicians also as Teachers but now as the age of retirement of teachers has been enhanced to 65 years, the said benefit is not granted to the petitioner. Shri Pareek, learned counsel invites my attention to Annexure-P3 dated 10.4.1997 with regard to the fact to say that when the Lab Technicians are treated as Teachers for the purpose of age of retirement, the petitioner is entitled to benefit of enhancement of age of retirement to 65 years and the same cannot be denied to the petitioner.

2. Smt. Bohre learned counsel for the State pointed out that the Lab Technicians are not teachers and their age of retirement is not enhanced from 62 to 65. It is pointed out that when the age of retirement of teachers was enhanced to 60 & 62 years, the orders treating the Lab Technicians as Teachers for the purpose of enhancing the age of retirement of Lab Technicians were issued. This was done till the age of retirement was enhanced from 60 to 62 years but now there is no order of State Government enhancing the age of retirement of Lab Technicians to 65 years and, therefore, it is argued that no relief can be granted to the petitioner.

3. Having heard learned counsel for the parties and on perusal of the records, it is seen that there is no document, circular, order, rule or regulation available on record, wherein the age of retirement of a Lab Technicians is fixed as 65 years. All the statutory rules and regulations available on record are either the amendment made to the rules by the State Government or the recommendations made by the University Grants Commission or the Government of India enhancing the pay scale and service conditions of teachers and professors working in the Education Department. There is no such document available to show that the age of retirement of Lab Technicians has also been enhanced. Annexure-P3 is an order passed by the State Government wherein for the purpose of enhancing the age of retirement of Lab Technicians from 58 to 60 years, the Lab Technicians were treated at par with Teachers, after the said purpose, this circular loses it's significance. This circular is only to treat a Lab Technicians at par with Teachers for the purpose of enhancing the age of retirement from 58 to 60 years. That apart, there is no order treating the Lab Technicians to be at par with Teachers for enhancement of the retirement age from 62 to 65 years.

4. Even though the circulars and orders passed by the Government of India and University Grants Commission deals with all other posts like Professors, Teachers etc, but there is no document or material available on record to show that there is any enhancement of age of retirement of Lab Technicians from 62 to 65 years, nor is there any order or circular available on record to show that the age of retirement of Lab Technician is enhanced.

5. Under such circumstances, no case is made out for interference, particularly now when the petitioner has already attained the age of 65 years during the past three years when, this writ petition was pending. In view of the above, finding no case for interference, this petition is dismissed.