
(2014) 09 MP CK 0087

In the Madhya Pradesh High Court

Case No : Writ Petition No. 13615/2014

Vinod Kumar Soni

APPELLANT

Vs

Rani Durgavati Vishwa Vidhyalaya

RESPONDENT

Date of Decision : 25-09-2014

Acts Referred:

Citation : (2014) 09 MP CK 0087

Hon'ble Judges : Sanjay Yadav, J

Bench : Single Bench

Advocate : Vipin Yadav, Learned counsel, Advocate for the Appellant

Judgement

Sanjay Yadav, J.—Heard on admission.

2. Order dated 30.08.2014 whereby the regularization of the petitioner as Class-IV has been cancelled.

3. Engaged on daily wages on 01.04.1990, the petitioner was regularized on 08.10.2008 on class-IV post in the pay scale of Rs.2550-3200.

4. That, order dated 08.10.2008 was subjected to challenge in writ petition No. 704/2010(s) : Anil Bahubali Jain vs. Rani Durgawati Vishwavidyalaya and others.

5. The writ petition was finally decided on 18.01.2011 in the following terms :

"8- Accordingly, after considering the cut-off date to be "6.10.2008", Registrar of the University is directed to scrutinize the cases of each individual employee, who has been regularized and if the High Power Committee has found any irregularity in the regularization of any employee apart from treating that employee to not have completed 10 years of service with reference to the cut-off date fixed by it as "10.4.2006", the Registrar shall be free to proceed in the matter by issuing notice to the employee concerned pointing out the irregularity in the appointment, hear his defence and thereafter take steps for cancelling his regularization in accordance with law. However, in case of such of the employees, who fulfil all the criteria laid down for regularization, their claim for regularization

shall not be cancelled only on the ground that they do not fulfil the criteria of completing 10 years of service, as on 10.4.06, instead treating the criteria for fulfilling the 10 years of service to be "6.10.08", the Registrar shall proceed in the matter. Registrar shall regularize the cases of all such employees, who have completed 10 years of service with requisite qualification as on "6.10.08" and in whose case no other irregularity is pointed out by the High Power Committee appointed by this Court, based on the report submitted by the Committee, the Registrar shall proceed and take action in the matter. In case the Registrar feels that the service of any of the employee regularized is to be terminated in the light of the findings recorded by the High Power Committee appointed by this Court, it shall be incumbent for the Registrar to issue notice to the person concerned alongwith a copy of the Report, hear him, consider his defence and reply and thereafter pass a speaking order.

9- However, it is made clear that for the purpose of determining eligibility criteria of completing 10 years and acquiring the requisite qualification, the cut-off date shall be treated as "6.10.08" and not as "10.4.2006".

10- With the aforesaid modification to the Report submitted by the High Power Committee to this Court, on 7.1.2011, all these petitions are disposed of granting liberty to the Registrar to proceed in the matter. As far as the present petitioners are concerned, if they are still working as daily wage employee, the Registrar is directed to consider their cases for regularization in accordance to the circulars issued by the State Government on 6.9.2008 and 16.5.2008, and while considering their cases for regularization the cut-off date for acquiring the qualification and service of 10 years shall also be fixed as "6.10.08" and their cases considered for regularization in accordance to the requirement of law and a final decision taken within a period of three months from the date of receipt of certified copy of this order.

11- It may be pointed out that if apart from the persons, who are before this Court, any other person has been regularized by the University in pursuance to the recommendations of the Selection/Scrutiny Committee, which met on "6.10.08", order passed in this case shall govern those cases also. While hearing the objections, if any, to the Report of the High Power Committee as may be submitted by any individual, on notice being issued by the Registrar, the Registrar shall be free to apply his own mind and take a decision in accordance to law, in case he finds that the findings recorded by the Committee has to be dealt with in a different manner. Liberty to that extent is granted to the Registrar by recording cogent reasons for the same and subject to approval of the Vice Chancellor of Rani Durgawati Vishwa Vidyalaya."

6. That in pursuance to the direction in writ petition, respondent caused the scrutiny of individuals who were benefited by order dated 08.10.2008, in the light of direction in writ petition and the policy of the State Government whereon it was found that at the time of initial engagement on daily wages, the petitioner was overage for direct recruitment. Consequently, petitioner was subjected to

show cause notice dated 24.09.2013.

7. Petitioner vide his reply dated 08.10.2013 while admitting fact of having engaged on daily wages as electricity helper denied that he was overage contending that with the relaxation in age accorded by the State Government to other backward class the petitioner was not overage.

8. The respondents vide impugned order dated 30.08.2014 recalled the order of regularization as the initial engagement of petitioner was found to be illegal.

9. It is contended that no age was prescribed for engagement on daily wages and therefore by adopting the parameter of age prescribed for appointment of direct recruitment for determining the maximum age is arbitrary and erroneous. The submissions though attractive, however, leaves no impression, because no Rules or Regulations has been commended at as would govern engagement on daily wages, therefore, the contention that no age is prescribed for engagement on daily wages has no substance and a comparison with the age prescribed for direct recruitment cannot be said to be arbitrary.

10. In view whereof as the petitioner was overage when initially engaged on daily wages, the same has rightly been held to be illegal as would confer any right in the petitioner.

11. Consequently, since no relief can be granted, petition fails and is dismissed. However, no costs.