

Smt.Seema Devi and ors. Vs. the State of M.P. and ors.

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Court : Madhya Pradesh

Decided On : Feb-14-2013

Appellant : Smt.Seema Devi and ors.

Respondent : The State of M.P. and ors.

Judgement :

1 W.P.No.1183/2004 14.02.2013 Shri R.K.Thakur, learned counsel with Shri P.S.Thakur, learned counsel along with the petitioner.

Shri S.M.Lal, learned Government Advocate for respondents No.1 to 4.

With consent heard.

Petitioner, Lecturer, Government Ayurvedic College seeks quashment of gradation list of demonstrator as of 1.4.1984, of medical officers (teaching cadre) as of 1.4.1986 of Gazetted Medical Officer as on 1.1.1991 order dated 25.6.1992 whereby demonstrators were promoted as Lecturers order dated 8.12.2003 and whereby Lecturers Ayurved were promoted as Readers in grade Rs.10000-325-15200 and gradation list of teaching cadre of the year 1994.

The quashment of seniority list and the promotion orders have been sought.

The petitioner feels that he has been superseded and has been deprived the seniority arbitrarily.

Whether the petitioner is justified in raising his grievance will be borne out from relevant facts of the case at hand.

Initially appointed as demonstrator on adhoc basis vide order dated 24.2.1978.

The petitioner's service was regularized in pursuance to the provisions of M.P.Regularization of Ad-hoc Appointment Rules, 1986, by order dated 22.6.1987.

On his regularization the petitioner was accorded seniority as per provision of 1986 Rules, from the date when brought in service on regular basis i.e.22.6.1987 on the post of demonstrator.

This seniority was fixed as per Rule 12.

These orders were not objected at, in turn they were allowed to attain finality.

That after these regularization of service by virtue of 1986 Rules, New Rules governing the service conditions of Gazetted Officer were framed as per proviso to Article 309 of the Constitution of India, viz, The Madhya Pradesh Public Health (Indian System of Medicine And Homeopathy) (Gazetted) Service Recruitment Rules, 1987.

With the advent of these Rules two separate cadres of teaching ad-hoc-teaching were created and on the basis of the option the petitioner has been detained in the teaching cadre.

That by order dated 25.6.1992 the petitioner and other demonstrators were promoted as LectureRs.This promotion as apparent from record was on the basis of the gradation list of demonstrator prepared after the regularization.

It will be pertinent to mention at this stage that prior to his regularization on post of demonstrator by order dated 18.6.1987 petitioner had raised the grievance against noninclusion of his name in the gradation list of regular demonstrator as on 1.4.1986, the representation preferred by the petition was dwelt 3 upon by order dated 27.7.1996 whereby he was informed that: vkids i= fnukad 25@1@90 ds lanHkZ esa lwfpr fd;k tkrk gS fd izn'kZd ds in ij vkidh rnFkZ fu;qfDr gksus ds dkj.k fnukad 1@4@86 ds in dze lwph esa vkidk uke lfEefyr ugha fd;k x;k gS vkids

vkosnu i= esa ftu vU; izn'kZdksa ds uke n'kkZ;s x;s gSa os ;k rks vk;qosZn fpfdRlk vf/kdkjh ds in ls LFkkukarfjr gksdj vk;s Fks vFkok mudks izn'kZd ds in ij lh/kh fu;qfDr].fu;qfDr;ka gqbZ Fkh A 'kklukns'k dzekad 857@87@17 esfM&2 fnukad 22@6@87 }kjk dh xbZ Fkh A ijhoh{kk ij izn'kZd ds in ij vkidh fu;qfDr dh xbZ gS vkSj fu;qfDr vkns'k esa n'kZr fu;e ds vuqlkj fu;fer gksus ij vkxkeh indze lwph esa vkidk uke fu;fer izn'kZd gksus ds fnukad ls n'kkZ;k x;k gksxk rnuqlkj Hkfo"; esa ik=rk vkus ij inksUufr ij fopkj fd;k tk ldsxk A.

Evidently, petitioner did not challenge this order.

And after regularization he was assigned seniority from the date of regularization which was in consonance with the provisions contained in Rules 1986, wherein Rule 12 stipulates- 12.Seniority:-(1) A person appointed under these rules shall be entitled to seniority only from the date of the order of regular appointment and shall be placed below the persons appointed in accordance with the relevant recruitment rules prior to the appointment of such person under these rules.

(2) If two or more persons are appointed together their seniority inter se shall be determined in the order mentioned in the order of appointment.

Thereafter the promotion of incumbent has been effected.

The petitioner is not able to point out that any junior to him were given breach over him.

It is in order to overcome this, the petitioner seeks direction to count his service from the initial date of appointment, i.e.when the petitioner was engaged as Ad-hoc demonstrator.

To 4 substantiate his claim petitioner relies on an order dated 25.3.1992 issued by the State Government in respect of Nursing Staff and other officers whose increments were stopped in pursuance to Finance Department's Circular No.430/4445/79/fu-1/pkj fnukad 7.7.1980.

Petitioner whose services was regularized in accordance with the provisions of 1986 Rules, however, fails to establish that he belongs to the class of employees

who were effected by circular dated 7.4.1980, therefore, no weightage can be gained by the petitioner on the basis of order dated 25.3.1992, having thus, considered, this Court is of the view that the petitioner is not entitled for the relief sought as none of the juniors to the petitioner have superseded him.

In the result, petition fails and is dismissed.

No costs.

(SANJAY YADAV) JUDGE das & Loretta

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