

Shivkumar Shukla Vs. the State of Madhya Pradesh

Shivkumar Shukla Vs. the State of Madhya Pradesh

SooperKanoon Citation : sooperkanoon.com/1089757

Court : Madhya Pradesh

Decided On : Sep-30-2013

Appellant : Shivkumar Shukla

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Prakash Upadhyay

Judgement :

WRIT PETITION No.2416/2012 1 30.09.2013 Shri Prakash Upadhyay, learned Counsel for the petitioner.

Shri Yadvendra Dwivedi, learned Panel Lawyer, for respondents-State.

Though the petition is listed for consideration of I.A.No.5499/2013, an application for urgent hearing, with the consent of learned Counsel for the parties, the matter is heard finally.

The only controverRs.involved in the petition is with respect to the selection of petitioner for his deputation posting in the establishment of respondent No.2.

It is contended by the petitioner that an advertisement was issued inviting applications from all eligible teachers working in the School Education Department to take part in the selection.

The conditions mentioned in the advertisement were later on amended but no rider was put with respect to the previous working on deputation in the very same department.

However, pursuance to a circular dated 24.11.2011 wherein it was provided that those, who have completed four years or more deputation posting under the respondent No.2 on different post, would not be eligible to take part in the fresh selection unless there is a cooling period of two years spent by them after repatriation to the parent department, the claim of the petitioner was not considered since he has completed 3 years and 9 months of service on deputation when the application was made by him.

It is contended by learned Counsel for the WRIT PETITION No.2416/2012 2 petitioner that such circular would not come in the way of the petitioner inasmuch as he has not completed 4 years of service on deputation.

Refuting such allegations, a return has been filed contending that the deputation posting itself is not to be claimed as of right.

Looking to certain contingencies, such condition was prescribed.

Since after the completion of 4 years of period on deputation, a required period of 2 years cooling off was to be completed, the petitioner was ineligible to take part in the selection.

This being so, it is contended that the claim made by the petitioner is misconceived.

It is pointed out by learned Counsel for the petitioner that the result of petitioner was not declared though he was allowed to take part in selection.

While entertaining the writ petition, this Court has directed that if any appointment is made, it shall be provisional and subject to final outcome of the writ petition.

It is further pointed out that since now 2 years period is complete from the date of repatriation of the petitioner and the date of fresh selection, which was initiated by the respondents, it would be appropriate to direct the respondents to look into the

claim of the petitioner.

Considering the aforesaid, it is seen that since now the petitioner has completed 2 years period after his repatriation, otherwise he would be eligible to take part in the fresh selection if initiated by the respondents.

Even otherwise, in terms of the provisions of circular dated 24.11.2011, previous posting of petitioner will not come WRIT PETITION No.2416/2012 3 in his way for fresh deputation posting because of the reasons mentioned herein above.

Looking to the aforesaid, respondents are directed to look into the selection of the petitioner and in case he is found fit for deputation posting, to permit him to take part in the selection without insisting on him to take part in complete process of selection and on the basis of previous selection, he may be posted on deputation, if required in future.

With the aforesaid, the writ petition stands finally disposed of.

There shall be no order as to costs.

Certified copy as per rules.

(K.K.Trivedi) Judge Skc

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com