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WP-10214-2021

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 26th OF NOVEMBER, 2025WRIT PETITION No. 10214 of 2021*DR. ARUN PRAKASH BUKHARIA**Versus**THE STATE OF M.P. AND OTHERS*

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Appearance:

Shri Shubham Manchani - Advocate for the petitioner.

Shri Teerathraj Pillai - P.L. And Supriya Singh - P.L. for the
respondents/State.

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ORDER

The present petition has been filed by the petitioner for following reliefs:-

- "(i) To call for the record of Pension Case No. 806/34/प्र.स./आउशि/शाखा-2/20,
(ii) To quash impugned order of Annexure P/10
(iii) To direct the respondents to calculate the pension on the basis of period of 33 years of services of the petitioner and:
(iv) To direct the respondents to include the period of Ad-hoc services of the petitioner w.e.f. 05-03-1977 till date of retirement i.e. 31.12.2009 and:
(v) To grant full pension and full pensionary benefits as well as arrears of pension to the petitioner w.e.f. the date of his retirement with interest at the market rate,
(vi) To grant any other relief, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case including cost of the litigation in favor of the petitioner."

2. It has been submitted by learned counsel for the petitioner that the petitioner was appointed as ad-hoc lecturer of Physics in Government College, Bina, District Sagar vide order dated 5.3.1977. Petitioner's services continued as



ad-hoc lecturer till 4.3.1987. The petitioner's services were regularized vide Order dated 04/03/1987. The petitioner thereafter was promoted to the post of Professor. The petitioner stood retired on 31.12.2009. It is submitted that the Government had resolved the dispute of counting of the period of adhoc services for the purpose of qualifying period of pension. Thus, the petitioner has applied in the year 2020 for such benefit and submitted representation (Annexure P/7). Same was rejected vide order dated 26.3.2021 (Annexure P/10). Being aggrieved by the said order dated 26.3.2021, the present petition has been filed.

3. It has been contended by learned counsel for the petitioner that as per Rule 15-A of 'Madhya Pradesh Civil Services (Pension) Rules, 1976' (hereinafter referred to as 'Rules' for the sake of brevity), the twin conditions which have been provided for considering the cases of adhoc employee are that the ad-hoc appointee has been regularized on a regular post and his service during ad-hoc period has remained uninterrupted. It is submitted that though the respondents had given breaks to the services of the petitioner during adhoc period, but that break was artificial for two or three days, which cannot be considered to be interruption as provided in rule 15-A of ' Rules' . Thus, on the basis of aforesaid contention prayed that the impugned order dated 26.3.2021 (Annexure P/10) is not in consonance with the law and deserves to be quashed by granting benefit to the petitioner of the period which he has served as adhoc from year 1977 to 1987 with further directions to the respondents to grant pensionary benefits accordingly.

4. Per contra, learned counsel for the respondents has submitted that rule 15-A provides twin conditions, which is :- (1) the adhoc employee is appointed on the regular post and (2) his appointment is regularized without interruption in service. In the present case in hand, the petitioner's period of service during adhoc was interrupted for which table (Annexure R/2) has been filed to demonstrate that



how the petitioner has been given break for the period served on adhoc basis, which shows that on completion of a certain period, three days' break has been given to the petitioner. It is submitted that the case of the petitioner has been considered sympathetically by applying subsequent amendment of year 2020 of Rule 15-A, and the benefit of the period he served, which is preceding regularization after interruption, has been extended, accordingly 111 days of ad-hoc service tenure has been counted for the purpose of pensionary benefit. Thus, on the basis of aforesaid contention, prayed for dismissal of the petition.

5. Heard learned counsel for the parties and perused the record.

6. It is apt to consider the application of Rules of 1976 to the case of petitioner. Therefore, the unamended provision of Rule 15-A and amended Rule - 15-A of the 'Rules', which came in existence in year 2020, both are being reproduced hereunder:-

Unamended 'Rules' :-

"15A-Counting of ad-hoc service-
ad-hoc service shall qualify, if:-

- (a) the ad-hoc appointment was against a regular post and appointment is regularized without interruption in service;
or
- (b) ad-hoc appointment to a higher post was made on promotion from lower post held in substantive, officiating or temporary capacity."

'Rules' amended in year 2020:-

"²[(c) In case of two or more interruptions in the ad-hoc services, only ad-hoc period immediately preceding the regular appointment shall be deemed to be qualified for Pension.

Further, on the appointment to a regular post from the ad-hoc service, the period between the relinquishment of the ad-hoc post and joining of the regular post shall not be treated as interruption in the service.]"



7. From bare perusal of the Rule 15A of the 'Rules', it is found that the period of ad-hoc services cannot be counted for pensionary benefit unless two conditions are satisfied - (1) That the appointment of the adhoc appointee has been done on the regular post, (2) Prior to regularization, the adhoc appointee continued his service uninterruptedly. Admittedly, as per Annexure R/2, the petitioner's services were not continuous. However, during adhoc period the petitioner was given two or three days' breaks on completion of certain period of service. This Court had occasion to deal with such situation of an adhoc employee in the case of *Geeta Shrivastava Vs. State of Madhya Pradesh* 1988 MPLJ 192, wherein the Court has held as under:-

"5. ... Reliance indeed is placed also on the case of Rattan Lal 1985 (4) SCC 43, wherein it was held that ad hoc teachers could not be subjected to unreasonable and arbitrary "hire and fire" policy by contemplating "breaks" in their service, as in the instant case."

The Hon'ble Apex Court in the case of *Ratan Lal and Others Vs. State of Haryana and Others* (1985) 4 SCC 43 has held as under:-

"3. We strongly deprecate the policy of the State Government under which 'ad-hoc' teachers are denied the salary and allowances for the period of the summer vacation by resorting to the fictional breaks of the type referred to above. These 'ad-hoc' teachers shall be paid salary and allowances for the period of summer vacation as long as they hold the office under this order. Those who are entitled to maternity or medical leave, shall also be granted such leave in accordance with the rules."

8. Thus, it is clear that such Hire and Fire Policy contemplating breaks in the services of adhoc employee was found to be unjustified, and services of adhoc employee with such artificial break was found to be continuous for the purpose of pensionary benefits. The Division Bench of this Court vide order dated 19.11.2019 in WA No.165/2014 has again revisited said observation of the Court passed in the case of *Geeta Shrivastava Vs. State of Madhya Pradesh* (Supra) and



found that the Single Bench order was justified in granting benefit to the adhoc employee counting the period of adhoc service which was served with some interruption treating it to be artificial breaks.

9. When the contention of the respondents' Counsel for the State has been analyzed on the basis of the aforesaid enunciation of law and the rule 15-A of Rules of 1976, it is found by this Court that the benefit of 111 days which has been extended vide impugned order dated 26.3.2021 (Annexure P/10) was on the basis of the amendment which has been brought in the year 2020. The petitioner has been retired from service in the year 2009. The amendment in the 'Rules' which was incorporated in the year 2020 has not been made applicable retrospectively. Thus, in the considered opinion of this Court, the unamended rule which was prevailing at the relevant time of the retirement of the petitioner in year 2009 is applicable in the case in hand.

10. Rule 15-A (unamended) provides twin conditions for counting period for the purpose of pensionary benefits, which are - (1) That the appointment of the adhoc appointee has been done on the regular post, (2) Prior to regularization, the adhoc appointee continued his service uninterruptedly. Therefore, by applying the principle laid down by the Hon'ble Apex Court in the case of *Ratan Lal* (supra) and this Court in the case of *Geeta Shrivastava* (Supra), it is held that the breaks which were given during adhoc period of the petitioner were fictional. The petitioner has been regularized considering the period of adhoc, thus cannot be made basis denying counting of period of adhoc services for pensionary benefits.

11. In view of the foregoing discussion, this Court is of the considered opinion that the breaks which have been given to the petitioner during his adhoc period were artificial and deserves to be counted and the period of adhoc should



be treated to be continuous for the purpose of pension on the basis of law laid down by this Court in the case of *Geeta Shrivastava Vs. State of Madhya Pradesh* (supra), *Ratan Lal* (supra) and WA No.165/2014. The petition of the petitioner is hereby allowed. Impugned order dated 26.3.2021 is hereby quashed. Respondents are directed to extend the benefit of pension by counting the entire period of adhoc which the petitioner has served on adhoc basis prior to his regularization and said exercise be completed within a period of three months from the date of production of certified copy of this order.

With the aforesaid, the petition is **disposed of**.

(DEEPAK KHOT)
JUDGE

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