



**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

ON THE 27th OF JANUARY, 2026

WRIT PETITION No. 649 of 2017

SMT. POORNIMA SAXENA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Dharmendra Singh Raghuvanshi – counsel for petitioner.

Shri Ravindra Dixit – Government Advocate for respondent/State.

ORDER

This petition, under Article 226 of Constitution of India, has been filed seeking the following relief (s):

“(i) That, the present petition filed by the petitioner may kindly be allowed;

(ii) That, the impugned order dated 14.12.2016 Annexure P/1 passed by the respondent no.2 may kindly be directed to be set aside. It may kindly be further clarified that there has been no break in service for a day even right from the joining of the petitioner in the year 1987 till her retirement up to 2014, in that view of the matter the respondents have no option but to regularize the services of the



petitioner especially in the facts and circumstances of the case when they permitted the petitioner to retire and aforesaid two conditions are not with her control.

(iii) That, any other just, suitable and proper relief, which this Hon'ble Court deems fit, may also kindly be granted to the petitioner. Costs be also awarded in favour of the petitioner.”

2. Learned counsel for petitioner submits that petitioner was appointed on 27.10.1987 on the post of Registrar in Post Graduate P.G. College, Shivpuri. She joined on 30.10.1987 and worked regularly till 1990. Thereafter, she was transferred to Government P.G. College, Guna. It is further submitted that petitioner was initially appointed on compassionate ground on account of death of her husband in harness. It is further submitted that there were two conditions mentioned in the appointment order viz.: -

- (i) petitioner was required to pass Accounts Training Examination within two years; and
- (ii) petitioner was required to qualify the Public Service Commission Examination as and when it was held, failing which her services could be terminated without notice.

It is further submitted by learned counsel for petitioner that as per terms and conditions mentioned in the appointment order, it is clear that accounts training was to be acquired by petitioner, only when she was allowed by the



department to participate in the Accounts Training. It is further submitted that Accounts Training cannot be obtained outside the department on private basis but it has to be obtained through department as the same is conducted by the Department only. So far as condition No.2 is concerned, it is submitted that P.S.C. has never advertised for the post of Registrar. It is further submitted that petitioner applied before the Director Treasury and Accountants M.P. Bhopal for accounts training in terms of order of appointment dated 27.10.1987 but that application dated 23.2.1988 was not given any due weightage and on the contrary, Director Treasury and Accounts stated that for Class-II Gazetted Post no accounts training is provided. It was further stated in the order that only for Class-III post the Accounts Training is provided by the Government and Accounts Department (Annexure P/3). It is further submitted that both the conditions mentioned in the appointment order cannot be fulfilled by petitioner herself as petitioner was depended upon the department/PSC. As by Annexure P/3 the respondent has already mentioned that there is no need to pass the Accounts Training and so far as the other condition is concerned, right from 1987 till that the post of Registrar was not published by the PSC, therefore, non-qualifying of petitioner till her retirement cannot said to be due fault on the part of petitioner. Petitioner stood retired on 30.8.2014 and as per the Recruitment Rules, i.e. M.P. Higher Education Collegiate Rules, 1987, petitioner's services were required to be regularized in order to extend the benefit of medical leave, half -pay leave, GIS, GPF and pension etc. by calculating the services rendered by her with effect from the date of her initial appointment i.e. with effect from 27.10.1987. It is further submitted that even otherwise since both the conditions



were not under the control of the petitioner, the non-regularization of the services of petitioner is absolutely illegal. It is further submitted that once the petitioner was permitted to retire on completion of age of superannuation, the respondents cannot deprive her of the fruits of regularization. Learned counsel for petitioner has relied upon the order dated 28.4.2025 passed in W.P. No.26158/2022 [**Sangeeta Saxena v. The State of Madhya Pradesh and others**].

3. Learned counsel for the respondent, on the other hand, has opposed the prayer made by the counsel for the petitioner and has supported the impugned order. It is further submitted that there is no infirmity in the order under challenge and that the representation has rightly been rejected vide impugned order dated 14.12.2016. It is further submitted that the petitioner has not fulfilled both the conditions mentioned in the appointment order; therefore, the petitioner is not entitled to regularization of her services. It is also submitted that the post of Registrar, on which the petitioner was appointed, is a Class-II Gazetted post and appointment to the said post can be made only after recommendation of the Public Service Commission in terms of the provisions contemplated under Article 320 of the Constitution of India.

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

5. It is the case of the petitioner that there was no difference in his services as regular Registrar or as adhoc Registrar because he was performing the equal duties and getting the equal salary in the same pay scale and initially earning increments also. Only technically the adhoc services were not regularized and



due to non-regularization of adhoc services he has been made to suffer in the impugned manner.

6. Reliance is placed on the judgment of Supreme Court in the case of **The State of Gujarat & Ors. Vs. Talsibhai Dhanjibhai Patel reported in 2022 LiveLaw (SC) 187** to contend that a person having continued on adhoc basis for 30 years should be regularized in the service and Supreme Court in the aforesaid case has affirmed the order of the Gujarat High Court in the matter.

7. It is further the case of the petitioner that the State Government has framed policies time and again for regularization of even daily rated employees and even after judgment of Supreme Court in the case of *Secretary, State of Karnataka Vs. Uma Devi and Ors. reported in (2006) 4 SCC 1* the State Government has come out with the policy dated 16.05.2007 to consider the cases of the employees who are irregularly appointed (and not illegally appointed) for regularization. However, just to deny the benefit of pension to the petitioner, she has not been regularized in service though she was getting regular salary in regular pay scale and put in 28 years of service.

8. It is settled in law that only an irregular appointment can be regularized and illegal appointment cannot be regularized. It is not in dispute that the petitioner was not appointed by following compassionate appointment policy and she was having necessary qualification for that post and it is also not the case that petitioner has suppressed any material fact for the purpose of appointment on compassionate basis.



9. The Constitution Bench of the Supreme Court in the celebrated judgment in case of *Uma Devi (supra)* has held that regularization cannot be claimed by an employee as a matter of right. However, as per Para-53 of the said judgment a onetime exercise was directed to be carried out in cases of those employees who had been irregular appointees and not illegal appointees and had completed more than 10 years of service. The Supreme Court in the aforesaid case held as under:-

34. In *A. Umarani v. Registrar, Coop. Societies* [(2004) 7 SCC 112 : 2004 SCC (L&S) 918] a three-Judge Bench made a survey of the authorities and held that when appointments were made in contravention of mandatory provisions of the Act and statutory rules framed thereunder and by ignoring essential qualifications, the appointments would be illegal and cannot be regularised by the State. The State could not invoke its power under Article 162 of the Constitution to regularise such appointments. This Court also held that regularisation is not and cannot be a mode of recruitment by any State within the meaning of Article 12 of the Constitution or any body or authority governed by a statutory Act or the rules framed thereunder. Regularisation furthermore cannot give permanence to an employee whose services are ad hoc in nature. It was also held that the fact that some persons had been working for a long time would not mean that they had acquired a right for regularisation.

53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa* [(1967) 1 SCR 128 : AIR 1967 SC 1071] , *R.N. Nanjundappa* [(1972) 1 SCC 409 : (1972) 2 SCR 799] and *B.N. Nagarajan* [(1979) 4 SCC 507 : 1980 SCC (L&S) 4 : (1979) 3 SCR 937] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court



in the cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.

10. From a perusal of para-34, as quoted above, it is evident that when appointments are made in contravention of mandatory provisions of the Act and by ignoring essential qualifications, the appointments would be illegal and cannot be regularized by the State. Even in para-53, the Supreme Court has held that duly qualified persons in duly sanctioned posts can be considered for regularization.

11. Perusal of record reveals that petitioner was appointed on 27.10.1987 to the post of Registrar in P.G. College, Shivpuri, on compassionate ground due to the death of her husband in harness. She joined on 30.10.1987, worked regularly till 1990, and was thereafter transferred to Government P.G. College, Guna. Her appointment was subject to two conditions viz (i) passing the Accounts Training Examination within two years; and (ii) qualifying the Public Service Commission (PSC) examination as and when conducted. However, Accounts Training could be undertaken only through the department and the Director, Treasury and



Accounts, M.P., clarified that such training was not required for Class-II Gazetted post and was provided only for Class-III posts (Annexure P/3). Further, the PSC has never advertised the post of Registrar. Thus, both conditions were beyond petitioner's control, and the non-fulfilment thereof cannot be attributed to her as fault on her part. The petitioner stood retired on 30.08.2014. As per the M.P. Higher Education Collegiate Rules, 1987, her services were required to be regularized from the date of initial appointment, i.e., 27.10.1987, to grant her retiral benefits. Non-regularization of her services is illegal and once she was allowed to retire on attaining the age of superannuation, the respondents cannot deny her the benefits flowing from regularization.

12. It is not in dispute between the parties that petitioner was appointed on an ad hoc basis on 27.10.1987. She continued in the same status and superannuated w.e.f. 30.08.2014. However, the petitioner was granted a regular pay scale of Rs. 1820-60-2300-75-3200-100-3300/- as per appointment order dated 27.10.1987 (Annexure P/2). Once petitioner was granted a regular pay scale, she effectively rendered her services as a regular employee. The petitioner has served in the respondent department for a period of 28 years. An identical petition, i.e., W.P. No. 26158/2022, has already been decided vide order dated 28.04.2025 in *Sangeeta Saxena* (supra), the relevant paragraphs of which are reproduced hereinbelow for ready reference and convenience:-

10 . The Apex Court in the case of **The State of Gujarat & others Vs. Talsibhai Dhanjibhai Patel in SLP(C) No.1109/2022** , while dealing with somewhat similar situation, has held as under:

"It is unfortunate that the State continued to take the services of the respondent as an ad-hoc for 30 years and



thereafter now to contend that as the services rendered by the respondent are ad-hoc, he is not entitled to pension/pensionary benefit. The State cannot be permitted to take the benefit of its own wrong. To take the Services continuously for 30 years and thereafter to contend that an employee who has rendered 30 years continues service shall not be eligible for pension is nothing but unreasonable. As a welfare State, the State as such ought not to have taken such a stand. In the present case, the High Court has not committed any error in directing the State to pay pensionary benefits to the respondent who has retired after rendering more than 30 years service."

11. Thus, the petitioner stands on exactly similar footing as was the respondent before the Apex Court and there is no reason for denying the benefit of pension to the petitioner in view of the aforesaid judgment of the Apex Court.

13. In view of the aforesaid, this petition is disposed in following terms:

i- The petition is allowed and the impugned order dated 14.12.2016 Annexure P/1 passed by the respondent no.2 is hereby quashed;

ii. The respondents are directed to extend the benefit of pension to the petitioner by treating her ad hoc service as regular and pensionable w.e.f. 27.10.1987;

iii. The respondents are further directed to extend all the benefits which has been given to regular employee w.e.f.27.10.1987;



- iv. The respondents are further directed to treat the services of petitioner as regular services w.e.f. 27.10.1987;
- v. Respondent are further directed to give all consequential benefits to petitioner treating her as a regular employee .w.e.f. 27.10.1987;
- vi The respondents are further directed to grant all retiral benefits to petitioner, as she retired as a regular employee on 30.08.2014 ;
- vii. Respondents are further directed to issue the PPO and GPO and to pay arrears of pension to petitioner from 30.8.2014;
- viii. Respondents are further directed to pay regular pension to petitioner;
- ix. Respondents are directed to comply with aforesaid direction within a period of three months from the date of receipt of certified copy of this order, failing the respondents would be libale to pay interest to petitioner at the rate of 6% per annum from the date of realization till its acutal payment.
- x. Since the petitioner has been unnecessarily harassed by the respondents, they are further



directed to pay cost/compensation of Rs. 50,000/-
to petitioner.

xi The petitioner is also directed to submit a detailed representation seeking benefits such as kramonnati and promotion. In turn, the respondents are directed to consider the same and grant, promotion and kramonnati, if the petitioner is otherwise eligible.

14. With the aforesaid, present petition stands *disposed of*.

(Anand Singh Bahrawat)
Judge

Ahmad