



IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 21<sup>st</sup> OF APRIL, 2025

WRIT PETITION No. 7063 of 2021

**DR. PAYAL SAXENA**

*Versus*

**THE STATE OF MADHYA PRADESH AND OTHERS**

Appearance:

Ms. Mini Ravindran - advocate for the petitioner.

Shri Raghav Shrivastava- Govt. Advocate appearing on behalf of  
Advocate General.

Shri Anand Bhatt-advocate for the respondent no.3.

**WITH**

WRIT PETITION No. 5194 of 2021

**DR. PAYAL SAXENA**

*Versus*

**MEDICAL EDUCATION DEPARTMENT AND OTHERS**

Appearance:

Ms. Mini Ravindran - advocate for the petitioner.

Shri Raghav Shrivastava- Govt. Advocate appearing on behalf of  
Advocate General.

Shri Anand Bhatt-advocate for the respondent no.3.

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ORDER

1] This order shall also govern the disposal of **Writ Petition no. 5194/2021**, as in both the petitions, the issue of seniority is involved.

2] For the sake of convenience, the facts as narrated in **Writ Petition no.7063 of 2021** are being taken into consideration.



3] This petition has been filed under Article 226 of the Constitution of India by the petitioner, seeking the following reliefs:-

- (a) To call for the relevant records of the case from respondents,*
- (b) To quash the impugned order dated 16-03-2021 (Annexure-P/9) issued by respondent No. 3 by a writ of Certiorari for any other appropriate writ direction or order;*
- (c) to allow his petition with costs;*
- (d) to pass such other orders as may be deemed appropriate in the facts and circumstances of the case to grant relief to the petitioner."*

4] The petitioner is aggrieved by the order dated 16.03.2021 (Annexure P/9), passed by the respondent no.3/Principal/Chief Executive Officer, Autonomous Dental College, Indore whereby, the petitioner, who was posted on the post of Reader has been reverted back to the post of Contractual Lecturer on account of her claiming the correction of date of initial appointment for the purposes of getting the work experience while referring to the Circular dated 08.03.2007. The impugned order has also been passed on the ground that the petitioner had also preferred writ petition bearing no.5194/2021; Whereas in her initial contractual appointment, she had given an undertaking that her seniority shall be calculated from the date of regularization, and had also undertaken that she would not file any case in the Court for the benefit arising out of counting of the contractual services from the date of initial date of appointment.

5] Counsel for the petitioner has submitted that the petitioner abides by the undertaking which she had given at the time of her contractual appointment on 22.07.2010, which is filed as Annexure P/1, regarding which an affidavit was also filed by the petitioner on 31.08.2010, and later on she also completed the period of probation of two years successfully



hence, on 29.12.2015, she was appointed on the regular post of Lecturer temporarily on the basis of the earlier undertaking. Vide order dated 05.03.2018, her services have been regularized from 29.12.2017, and subsequently, on 06.04.2018, she was also selected on the post of Reader under the Aadarsh Bharti Niyam, 2018.

6] On 11.12.2020, the respondent No. 3 invited the objections regarding the interim seniority list as existed on 01.04.2020. On 15.12.2020, the petitioner submitted a representation stating that the date of her first joining in the dental college should be mentioned at column no.7, which refers to the date of her first appointment, and against which, the petitioner's initial date of appointment is mentioned as 15.12.2015 instead of 22.07.2010. However, the respondents rejected the representation submitted by the petitioner on 23.10.2020. Against which, the petitioner has also preferred W.P. No 5194/2021, which is also listed today only.

7] Counsel for the petitioner has also drawn the attention of this Court to the Circular dated 08.03.2007 (Annexure P/7), filed by the petitioner in W.P. no. 5194/2021), which also provided that the time spent during the period of contractual appointment on the post of Lecturer/ Reader/ Assistant Lecturer /Professor shall be taken into consideration for the purposes of promotion towards work experience. In the said circular, it is also provided that such Medical Teachers' seniority shall be decided on the basis of their appointment on the contractual basis. Thus, it is submitted that the petitioner is only seeking her *inter-se* seniority, which can be decided among the identically placed Teachers on the basis of their initial date of contractual



appointment and no other benefits of the period of contractual services are being sought by the petitioner.

8] Shri Anand Bhatt, learned counsel for the respondent No.3 has opposed the prayer and it is submitted that in the initial order of appointment of the petitioner dated 22.07.2010, it is clearly stated that the petitioner is required to give an undertaking that her seniority shall be counted only after her regularization, meaning thereby, that she shall not claim any seniority for the contractual period.

9] Counsel for the respondent has further submitted that the Circular dated 08.03.2007 is concerned, the same is also in respect of the other employees, and the petitioner is not a Medical Teacher.

10] Heard the counsel for the parties and also perused the record.

11] On perusal of the record, it is found that so far as the impugned order dated 16.3.2021 (Annexure P/9) is concerned, it has been passed directing that the petitioner's regularization order dated 29.12.2015, and the order dated 06.04.2018, whereby she was promoted to the post of Reader, Conservative Dentistry & Endodontics Department have been cancelled. This order has been passed without hearing the petitioner and without issuing any show cause notice to her in this regard.

12] The respondents have relied upon the condition no. 2 of the initial appointment order of the petitioner dated 22.07.2010, and pursuant to which, the petitioner had also submitted an affidavit dated 31.8.2010, in which she had stated that her regularization shall be considered from the date of her initial date of regularization, and she shall not claim any seniority, salary and other emoluments for the period of her contractual appointment and she shall also not initiate any legal proceedings in this



regard. In the impugned order, the respondents have also referred to filing of the petition bearing W.P. No.5194/2021 regarding her seniority. In the considered opinion of this Court, the impugned order cannot be sustained in the eyes of law, firstly, for the reason that it has been passed without giving any opportunity of hearing to the petitioner; despite the fact that she was a regular employee, as the services of a regular employee cannot be reverted back to her original post just by referring to the conditions of his initial order of her appointment on contractual basis.

13] So far as the relief sought in Writ Petition no.5194/2021 is concerned, the same reads under :-

- “7 (a) To call for the relevant records of the case from respondents,*
- (b) To command the respondents to correct the date of appointment that is 2207.2010, instead of 29.12.2015, in the provisional seniority Annexure P/4 dated 11.12.2020,*
- (c) to allow this petition with costs,*
- (d) to pass such other orders as may be deemed appropriate in the facts and circumstances of the case to grant relief to the petitioner.”*

However, considering the submissions as advanced by Ms. Mini Ravindran, counsel for the petitioner that the petitioner is not claiming any benefit of salary or any other emoluments but, only the relief that the inter-se seniority of the petitioner and the other identically placed persons may be determined from the date of their contractual appointment till their regular appointment , which prayer appears just and reasonable and does not come in the way of the condition no.1 of the initial appointment dated 22.7.2010. It is found that the petitioner was regularized on 29.12.2015, thus, after a period of five years, she was regularized, and in such circumstances, her aforesaid seniority from the initial appointment dated



22.7.2010 cannot be ignored while determining the inter-se seniority of such identically placed employees, who were also appointed on contractual basis and subsequently regularized.

14] In such circumstances, this Court finds that there is no reason for the respondents to revert the petitioner from the post of Reader to her original post of Lecturer, and accordingly, the impugned order dated 16.03.2021 (Annexure P/9) is hereby quashed, and the respondents are directed to reinstate the petitioner to the post of Reader.

15] Needless to say, the petitioner shall be entitled to receive all the consequential benefits for the period of her reversion. So far as her seniority is concerned, the same shall be considered vis-a-vis the inter-se seniority of the identically placed employees, who are regularized in the same manner as the petitioner.

16] With the aforesaid, both the petitions are *allowed* and *disposed of*.

**(SUBODH ABHYANKAR)**  
**JUDGE**

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