

**HIGH COURT OF JUDICATURE MADHYA PRADESH,**  
**JABALPUR**

**WRIT PETITION NO.1807 OF 2012**

**Dr. (Smt.) Asha Singh**

**Vs.**

**State of M.P. and others**

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**Present :-**

Shri Akash Choudhary, Advocate for the petitioner.  
Shri Piyush Jain, Panel Lawyer for the respondents/State

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**Whether Approved for Reporting: Yes.**

**Law Laid Down:** (i) The interpretation of the phrase “Government Teacher” as provided under the Madhya Pradesh Shaskiya Sevak (Adhivarshkiya Ayu) Adhinyam, 1967. Also distinguished the case of **Padam Kumar Vs. State of M.P. and others**, in W.P. No.13763/2013(s) decided on 30.01.2014, as also **Dr. Kanti Lal Sahu and another Vs. State of Madhya Pradesh and another**, in W.P. No.5237/2012 decided on 17.01.2013.

**Significant Paragraph Nos.8, 9 and 10.**

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**ORDER**

(Passed on this the 7<sup>th</sup> day of September, 2017)

The petitioner who was working as Lecturer since the year 1975 is aggrieved by the order dated 28.1.2012 (Annexure P/1) passed by the respondent No.1 whereby, as alleged by the petitioner,

she is prematurely superannuated from service on attaining the age of 62 years w.e.f. 31.7.2011.

**2.** In brief the facts of the case are that the petitioner was appointed on the post of Lecturer on 1.12.1975. The petitioner's contention is that as per the provisions of Madhya Pradesh Shashkiya Sevak (Adhivarshkiya Ayu) Adhiniyam, 1967, she falls within the ambit and explanation of a teacher and as such is entitled to be superannuated upon attaining the age of 65 years. It is further contended by the petitioner that she was sent on deputation to Narmada Valley Development Department on 8.7.1993 where she continued till her repatriation on 24.6.2010 but the aforesaid period has been excluded by the respondents for the purpose of calculating the retirement period of the petitioner and vide impugned order Annexure P/1 it is held that since she has not completed 20 years in class room teaching, she is not entitled to get the benefit of superannuation after completing the age of 62 years.

**3.** The contention of learned counsel for the petitioner is that the petitioner is governed by the Madhya Pradesh Shaskiya Sevak (Adhivarshiki Ayu) Sansodhan Adhiniyam, 2011 which replaces sub rule (1-a) with the sub rule (1-A), (1-g) & (1-h). Sub rule (1-g) which is relevant reads as under :-

“(1-g) (a) Subject to the provisions of sub-rule (2), every Government Teacher other than a Teacher mentioned in sub rules (1-a), (1-b) and (1-i) shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty five years.

Provided that every Government Teacher other than a Teacher mentioned in sub-rules (1-a), (1-h) and (1-i), whose date of birth is the first of a month, shall retire from service in the afternoon of the last day of the preceding month on attaining the age of sixty five years.

Explanation.- For the purpose of this clause, a “Government Teacher” means a Government Teacher by whatever designation called, appointed to a post, other than to the post of a Librarian or a Sports Officer, mentioned under Schedule-I of the Madhya Pradesh Educational Service (Collegiate Branch) Recruitment Rules, 1990, for the purpose of teaching in a Government educational institution in accordance with the recruitment rules applicable to such appointment, who not only possesses all the qualifications prescribed by the University Grant Commission for the post he holds but is also involved in class room teaching and shall also include a teacher who is appointed to an administrative post by promotion or otherwise and who has been engaged in teaching for not less than twenty years, provided he holds a lien on a post in the concerned Government educational institution.”

(emphasis supplied)

It is apparent from the aforesaid rule that the explanation provides that in order to be eligible to get the benefit of 65 years as the age of superannuation a government teacher is a person, who not only possesses all the qualifications prescribed by the University Grant Commission for the post he holds but is also involved in class room teaching and shall also include a teacher who is appointed to an administrative post by promotion or otherwise and who has been engaged in teaching for not less than twenty years, provided he holds a lien on a post in the concerned Government educational institution.

**4.** The contention is that the petitioner's case would fall within the purview of explanation provided in rule (1-g) which clearly provides that it is not necessary that a Government teacher must engage in class room teaching to avail the age of superannuation of 65 years and even a person who is appointed to an administrative post by promotion or otherwise and who has been engaged in teaching for not less than 20 years can be given the benefit provided he holds a lien on a post.

**5.** Further contention of learned counsel for the petitioner is that merely because the petitioner was not engaged as a teacher in a

particular institution for 20 years, the petitioner cannot be superannuated prematurely upon attaining the age of 62 years specially when the lien of the petitioner was maintained at the Higher Education Department. The petitioner has already completed 20 years' of teaching experience from the date of her initial appointment till end and thus the action of the respondents in segregating the period of deputation of petitioner to Narmada Valley Development Department from the period of qualifying service is bad in law.

6. In return, it is submitted by the respondents that the petitioner was on deputation for 18 years 11 months and 17 days in NVDA Bhopal on the post of Additional Director and she has not completed 20 years as class room teacher on which post she has worked only for 18 years 11 months and 14 days which is less than the minimum required period of 20 years of qualifying teaching and as such she is not entitled to get the benefit of retirement age of 65 years.

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

8. The only question before this Court for consideration is that as provided under rule (1-g) of the amended Rules i.e. The Madhya Pradesh Shaskiya Sevak (Adhivarshiki-Ayu) Sanshodhan Adhiniyam, 2011 whether the petitioner qualifies for the 65 years of the age of superannuation on the basis of 20 years' class room teaching. The explanation as appended to rule (1-g) clearly provides that a "Government Teacher" means a Government Teacher by whatever designation called, appointed to a post, other than to the post of a Librarian or a Sports Officer, mentioned under Schedule-I of the Madhya Pradesh Educational) Service (Collegiate Branch) Recruitment Rules, 1990, and it is provided that the person who is not engaged in teaching for not less than 20 years whether he or she is continuously teaching for 20 years or even otherwise appointed to an administrative post by promotion or otherwise. In either case the condition of class room teaching for 20 years is not dispensed with. The only rider is that a teacher who is otherwise posted on administrative post should also have a lien on a post in the concerned Government educational institution and from the document filed by the petitioner on record as also the pleadings of the petition, there is no denying the fact that the petitioner holds a

lien on the post but she had not completed the entire period of 20 years teaching as provided under the aforesaid rules.

9. In the circumstances, in the considered opinion of this Court, the petitioner is not able to make out any case for interference. The petitioner has also relied upon the decision of Indore Bench of this Court in the case of **Padam Kumar vs State of M.P. and others**, in W.P. No.13763/2013(s), decided on 30.1.2014 but in the aforesaid case also this Court has held that the teachers are entitled to continue up to the age of 62 years and other persons who are not designated as teacher and even though they are not designated as teacher are also entitled to continue up to the age of 65 years if they are having 20 years of teaching experience and under the facts and circumstances of that particular case, the petitioner was held to be entitled to continue up to the age of 62 years. The petitioner has also relied upon the Division Bench decision of this Court in the case of **Dr. Kanti lal Sahu & another vs State of Madhya Pradesh and another** in W.P. No.5237/2012 decided on 17.1.2013 wherein in paras 7, this Court, while considering the case of the petitioner under the provisions of Madhya Pradesh Public Health & Family Welfare (Gazetted) Service Recruitment Rules 1988 has held that the petitioners were entitled to retire at the age of

65 years as they are “members of Madhya Pradesh Public Health & Family Welfare (Gazetted) Service” and to be such member, the requirement is they are either appointed as Medical Officer or Specialist in accordance with the recruitment rules and shall also include such medical or specialist who is appointed to a administrative post by promotion or otherwise and who has served as Medical Officer or Specialist for not more than 20 years provided he holds *lien* on a post in concerned “M.P. Public Health Family Welfare (Gazetted) Services”. In this case the Apex Court has held that the case of the petitioners is squarely covered by the first category clearly since they were appointed as Chief Medical and Health Officer. Thus, the question whether the petitioners have completed 20 years as a Medical Health Officers or not has not ever been considered. Hence, the aforesaid decision is not applicable in the present facts and circumstances of the case.

10. This Court finds that the petitioner has not placed on record any document to show that she actually has the experience of classroom teaching for twenty years and on the other hand she has also not rebutted the contention of the respondent that she has actually worked for a period of 18 years 11 months and 14 days. Thus in the circumstances, the petitioner cannot be said to have



completed the 20 years of classroom teaching and hence she is not entitled to the benefit of 65 years of age of superannuation despite her continued lien on her department.

11. In view of above discussion, the petition fails and is hereby dismissed accordingly. No costs.

**(Subodh Abhyankar)**  
**Judge**  
07/09/2017

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