

THE HIGH COURT OF MADHYA PRADESH

WP. No.14743/2014

Jabalpur, Dated: 13/12/2018

Mrs. Amrit Ruprah, learned counsel for the petitioner.

Mr. Sheetal Tiwari, learned counsel for the respondent No.2.

Heard.

Mrs. Ruprah, learned counsel for the petitioner submits that the petitioner was initially appointed by order dated 13-01-1984 with Shri Shyam Lal Verma and Shri Vijay Kumar Yadav. The petitioner's services were terminated on 20-06-1984. He was reappointed on 12-01-1989 on daily rated basis. Annexure P/4 shows that the petitioner was appointed on probation by order dated 20-06-1995 for a period of two years.

Mrs. Ruprah by taking this Court to the seniority list (Annexure P/5) submits that in the seniority list, services rendered by Shri Shyam Lal Verma and Shri Vijay Kumar Yadav on daily rated basis were taken into account whereas the petitioner was given a step motherly treatment. His services are taken into account from the date he was regularized in the service. Reliance is placed on the order passed in WP. No.4235/07 (*Prakash Dwivedi vs. State of M.P. & Ors.*).

Shri Tiwari, learned counsel for the respondent No.2 on the other hand submits that the petitioner has given example of one Shri Ramlotan in Para 5.7 of the petition and made an effort to draw parity with the said person. There is no pleading

in the petition claiming parity with Shyma Lal Verma and Vijay Kumar Yadav. The seniority is given in accordance with rules and there is no illegality in the same.

No other point is pressed by the parties.

I have heard the parties at length and perused the record.

This is not in dispute between the parties that seniority to an employee is to be given as per Rule 12 of M.P. Civil Services (General Conditions of Service) Rules, 1961. A plain reading of Rule 12 makes it clear that an employee may get seniority from the date he became member of the service in accordance with rules. Thus, as per the rules, services rendered on daily rated basis cannot be taken into account for grant of seniority. If illegal benefit has been granted to said two persons, it cannot become example to be followed. In other words, the petitioner is claiming negative equality, which cannot be given in view of *(2000) 4 SCC 186 (C.S.I.R. & Ors. vs. Dr. Ajay Kumar Jain)*, *(2007) 8 SCC 249 (State of Jharkhand & Ors. Manshu Kumbhkar)* and *(2011) 3 SCC 436 (State of Orissa & Anr. vs. Mamata Mohanty)*.

Apart from this, in the petition, the petitioner has not pleaded that he is claiming parity with Shyam Lal Verma and Vijay Kumar Yadav. The parity is claimed with Shri Ramlotan but it could not be substantiated during the course of arguments. The name of Ramlotan does not find place in the seniority list (Annexure P/5). During the course of arguments, Ms. Ruprah relied on Para 6.2, 6.3 and 6.4 of the petition to contend that the question of discrimination/parity is specifically

pleaded.

A plain reading of these paragraphs shows that a bald statement is made that the petitioner is entitled to get similar benefit but no names and examples are quoted i.e. with whom such parity is claimed. Thus, pleadings are of no use to the petitioner. If the petitioner is claiming parity, he should have pleaded the factual basis of such parity with accuracy and precision in the body of petition. In absence thereof, this Court is not required to conduct a roving enquiry on the question of *inter se* seniority of the employees. This is trite law that in absence of specific pleadings and issues raised with accuracy, argument cannot be entertained [*See: (2010) 11 SCC 433 (Avinash Gaikwad and others vs State of Maharashtra and others)*]. Thus, I find no reason to interfere in the present matter.

The petition is dismissed. No cost.

**(Sujoy Paul)
Judge**

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