

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

**WRIT PETITION NO.2751 OF 2017**

Dr. M.R. (Mohan Ramuji) Deshmukh.

Vs.

State of M.P. and others.

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Smt Shobha Menon, Senior Advocate with Ms Ankita Khare,  
Advocate for the petitioner.

Shri Divesh Jain, Government Advocate for the respondent  
No.1.

Shri P.N. Dubey, Advocate for the respondents No.2 & 3.  
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**ORDER**

**(Passed on this the 28<sup>th</sup> day of April, 2017)**

The present petition has been filed by the petitioner who is presently posted as Technical Assistant at Jawaharlal Nehru Krishi Vishwavidyalaya, Jabalpur. He is aggrieved by the order dated 28.11.2016 passed by the respondent No.2 whereby the petitioner has been informed that he would stand superannuated on attaining the age of 60 years w.e.f.

30.4.2017. For the reason that he is not considered as a teacher and hence is not entitled to continue with the respondents until attaining the age of 65 years.

2. In brief the facts of the case are that the petitioner is governed by the Vishwa Vidyalaya Act, 1966 (hereinafter referred to as the '**Act of 1963**'). According to the petitioner, he is conducting and guiding the research work and has relied upon Section 2(x) and Section 32 of the Act of 1963, which read as under :

â€2(x) â€teacher of the Vishwavidyalayaâ€ means a person appointed or recognized by the University for the purpose of imparting instruction or conducting and guiding research and/or extension programmes and includes a person who may be declared by the Statutes to be teacherâ€.

Statute 32 describes teacher in the following terms:-

â€32. Vishwavidyalaya Teachers.â€Teachers of the Vishwavidyalaya shall be either â€

(a) servants of the Vishwavidyalaya paid by the Vishwavidyalaya for imparting instructions and/or conducting and guiding research and/or extension programmes as â€

- i. Professor,
- ii. Associate Professor
- iii. Assistant Professor,

Explanation : Any Teacher subsequently appointed as an Officer: as defined under Section 12 of the Act and Statute 3 (except the Chancellor and the Vice-Chancellor) by promotion or otherwise and has been engaged in teaching for not less than twenty years and holds a lien on a post in the V.V. shall also be a teacher, under this Statute.

(b) persons appointed by the Board as Honorary teachers in any of the aforementioned categories on such terms and conditions as the Board may prescribe by Regulations.

(c) A teacher shall be eligible to impart instructions and/or conduct or guide research and/or extension programme only upto such standard for which he is recognized as such in accordance with the Regulations made by the Board in this behalf.

(3) A teacher shall perform such functions and discharge such duties as may be prescribed by Regulations by the Academic Council.

(4) The word 'Teachers/Teacher' wherever it occurs includes person engaged in Research and Extension activities.

It is contended by the counsel for the petitioner that the first clause of the Statute includes only Professor, Associate Professor and Assistant Professor as teachers of the University while clause (4) enlarges the scope of the restricted definition contained in clause (1) and includes persons engaged in research and extension activities also within its ambit.

3. The case of the petitioner is that he was appointed on the post of Technical Assistant without a single promotion but now he is discharging the work of Assistant Professor in JNKVV. He is also being paid the pay-scale of Rs.8000-13500/- which is being paid to Technical Assistant as also to Assistant Professor. The Board in its 177<sup>th</sup> and 178<sup>th</sup> meeting decided to redesignate the post of Technical Assistant as Assistant Professor and as such the petitioner along with other Technical Assistants was designated as Assistant Professor vide notification dated 3.3.2017 filed as Annexure P/3 but on 24.5.2008 the aforesaid benefit of redesignation was withdrawn which is under challenge in W.P. No.8058/2008

pending before this Court.

4. Learned counsel for the petitioner has further submitted that the pay-scale of Assistant Professor/Scientist was Rs.8000-13500 whereas the Technical Assistants have also been placed in identical pay scale of Rs.8000-13500- w.e.f. 11.10.2008 and they are at par with Assistant Professor discharging similar duties and therefore, they fall within the four corners of the definition of "Teacher" under the Act of 1963. It is further submitted that the petitioner had also applied for the post of Senior Scientist in the pay scale of Rs.12000-420-18300 and he was also called for the interview, which in itself demonstrates that even the respondents found the petitioner eligible for the post of Senior Scientist, hence he was also called for interview.

5. It is further submitted that in Rajmata Vijayaraje Scindia Krishi Vishwavidyalaya, Gwalior the Board has decided on 5.1.2012 that as per directions of ICAR that the post of T-6 i.e. Technical Assistant would stand merged with the post of Assistant Professor. Copy of the minutes of the meeting dated 5.1.2012 is filed as Annexure P/5.

6. On 25.7.2014 the respondent No.3/JNKVV has also written to the Principal Secretary requesting to merge the post of

Technical Assistant with Assistant Professor vide Annexure P/7. It is further submitted that the petitioner has been in the Advisory Committee for the students of M.Sc. (Ag) right from the year 2006 and has been instructing and guiding the Ph.D. scholars for conducting their research work. In support of the aforesaid contention, the orders are also filed on record collectively as Annexure P/8. In addition to that, the petitioner is also taking viva-voce examination in regard to final thesis of the Ph.D. students as is evident from Annexure P/9. The petitioner has also been the Chairman of the Advisory Committee and has issued certificates to the students certifying about fulfillment of the requirements for the degree of Master of Science in Agriculture in the Department of Agriculture (Agronomy) which are filed as Annexure P/10.

7. It is further submitted by Smt. Shobha Menon, learned senior counsel for the petitioner that on 8.12.2015 an advertisement was issued for the post of Principal Scientist, Associate Professor and Assistant Professor and in pursuance thereof the petitioner has also submitted his application for the post of Associate Professor, Assistant Professor in the discipline of Agronomy and in the aforesaid recruitment process his application was found in order and he was found

to be eligible. On 19.12.2016 the petitioner was also called for interview for the post of Associate Professor, a copy of the call letter is also filed along with the petition as Annexure P/13. Thus, it is submitted by the petitioner that he is a "Teacher" as provided under Section 2(x) of the Act of 1963 and is entitled to continue up to the age of 65 years as provided in the circular dated 4.7.2015 passed by the respondent/University and since his order of retirement has already been passed on 28.11.2016 vide Annexure P/14 the same is assailed by the petitioner before this Court.

8. Learned senior counsel for the petitioner has also relied upon the decision of this court in the case of **Drigpal Singh vs The State of M.P.** (W.P. No.18377/2012 decided on 11.2.2014) as also the decision of this Court in W.P. No.8361/2011 dated 11.8.2014.

9. The respondents No.2 and 3 have filed their reply wherein the contentions raised by the petitioner have been refuted and it is denied that the petitioner who is posted merely as Technical Assistant is entitled to be treated as a Teacher and hence there is no question of enhancing the age of superannuation of the petitioner from 60 years to 65 years. The respondents have also relied heavily on the order dated

24.1.2014 passed by this Court in W.P. No.3908/2000 in the case of **Smt Maya Verma vs. J.N.K.V.V. and others** and it is submitted that in the case of **Maya Verma**, she was appointed as an Extension Teacher in the University but this Court after minute scrutiny of the case has held that Maya Verma did not fall within the definition of Teacher. The learned counsel has further relied upon the decision of this Court in the case of **J.N.K.V.V. vs. P.C. Modi**, reported in **MPLJ 2010 (1) 395** and it is submitted that the Division Bench of this Court has laid down that unless a person fulfills the conditions of being a Teacher under Section 2(x) of the J.N.K.V.V. Act of 1963 and Statute No. 32 of the J.N.K.V.V. Statute 1964 he is not entitled for any benefit in respect of age of retirement.

10. It is submitted by the learned counsel for the respondents No.2 and 3 that the petitioner has filed no document to show that he was ever appointed as a Teacher and it is the prerogative of the respondents to appoint him on any particular post with any particular designation and thus it is for the respondents only to decide whether the petitioner was a Teacher or not and if the University in its discretion has held that the petitioner is not a Teacher within the meaning



of Section 2(x) of the Act of 1963, no interference can be made under the writ jurisdiction of this Court.

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

12. On perusal of the documents, this Court finds that the petitioner, who is appointed as Technical Assistant has been given numerous responsibilities by the respondent/University, which include giving guidance to the research students and from the documents, it cannot be said that the role of the petitioner was purely of subordinate assistant. Vide order (Annexure P-8) an Advisory Committee has been constituted for the students of M.Sc(Ag). At Sl.No.7, the petitioner's name is mentioned amongst other two persons as senior member of the Advisory Committee which can also be culled out from the aforesaid. The other document Annexure P/8 dated 24.7.2007 discloses that the petitioner has also been appointed as Chairman of the Advisory Committee. Similarly vide Annexure P-9 many examination notifications have been filed by the petitioner, in which the petitioner's name has been mentioned as member of the Advisory Committee to conduct Viva-Voce Examination. In number of such notification examinations at page No.78, 82, 84 & 85, which were issued by the Prof. &

Head of the Department, against the name of the petitioner the word "Scientist" is also mentioned.

13. It is further submitted that in many of the thesis filed as (Annexure P-10) submitted by various students, the name of the petitioner appears as Chairman of the Advisory Committee. In Annexure P-11, which is a self-appraisal document of petitioner-Dr.M.R.Deshmukh's qualification is stated to be M.Sc.(Ag.), Ph.D.FISOR, Scientist (Agronomy), whereas his experience is stated to be 27 years in Research and various scientist achievements have also been mentioned in the self-appraisal document. These documents demonstrate that the petitioner is a well qualified in his field and is knowledgeable person having involved in various research works.

14. The fact that the petitioner was also called for interview for the post of Associate Professor-Agronomy for the College of Agriculture, Balaghat, also indicates that the petitioner was considered as a Teacher notwithstanding the fact that he was not selected. In the circumstances, this Court is of the considered opinion that regardless of the nomenclature of the petitioner's post, which is Technical Assistant, the petitioner cannot be said to be a person, who is merely assisting the

students to carry out their studies/research work only. His role is clearly that of a guide and not that of an assistant.

15. The order relied upon by Shri P.N.Dubey, learned counsel for the respondents No.2 and 3 in the case of **Smt Maya Verma (supra)** is clearly distinguishable on facts of the present case as recorded in para 3 of the judgment and this Court after examining the facts of the case, the duties assigned to the petitioner and comparing it with the definition of "Teacher" as provided in Section 2(x) of the JNKVV Act, 1964. As also Statute 32 of the Act which describes "Vishwa Vidyalaya Teachers", came to a conclusion that the work assigned to the petitioner Smt Maya Verma cannot be said to be that of a "Teacher". In para 7 of the order, this Court also recorded a finding, which reads as under:

7.....She was merely associating with the team so engaged and merely because she was also imparting instructions in the sense that she was bringing the farmers abreast of the development and the latest techniques in farming, it cannot be said that she was engaged in imparting such instructions as a teacher. It is also not the case of the petitioner that the petitioner was ever recognized by the University as teacher for the purpose of imparting instructions in extension programmes. While it is

true that the designation of the petitioner did suggest that she was a teacher, the word "Teacher" as understood in common parlance must yield to the description contained in the definition and the statute to which the petitioner does not correspond. Consequently, the claim of the petitioner deserves to be rejected.

But the situation is quite different so far as present petitioner is concerned and his status is also not that of a simple assistant.

16. As has already been recorded above, the petitioner is well qualified person having the degree of M.Sc.(Ag.), Ph.D. FISOR, Scientist (Agronomy). He has experience of 27 years in research and is advising, interviewing and leading the students of Ph.D, and it brings him under the definition of "Teacher" for all the practical purposes.

17. That apart, the other judgment in the case of **P.C.Modi (supra)** cited by the learned counsel for the respondents No.2 and 3 is also distinguishable on facts, and therefore the same is not applicable in the present case. This Court further finds that the respondents have not filed their detailed reply and there is no specific denial of the documents filed by the

petitioner, his qualification and the duties assigned to him which have all the trapping of a teacher.

18. In view of the aforesaid backdrop, the petitioner has made out a case for an interference. In the result, the present writ petition filed by the petitioner deserves to be and accordingly is hereby allowed. The impugned order dated 28.11.2016 (Annexure P-14) passed by the respondent No.2 is hereby quashed and the respondents are directed to allow the petitioner to continue on his post till he attains the age of 65 years. There shall be no order as to costs.

(Subodh Abhyankar)

Judge

28/04/2017

Ansari