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

**BEFORE  
HON'BLE SHRI JUSTICE SUJOY PAUL**

**ON THE 17<sup>th</sup> OF AUGUST, 2023**

**WRIT PETITION No. 620 of 2017**

**BETWEEN:-**

**RAMKUMAR CHARMAKAR, (SAKET), S/O SHRI LATE  
JAGDEV CHARMAKAR, AGED ABOUT 60 YEARS, R/O  
VILLAGE SARRA, P.O. KANKAR, TAHSIL TEOTHAR,  
DISTRICT REWA, (MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI SANJAY SINGH - ADVOCATE )***

**AND**

- 1. THE STATE OF MADHYA PRADESH THROUGH ITS  
SECRETARY, SCHOOL EDUCATION  
DEPARTMENT, VALLABH BHAWAN, BHOPAL,  
(MADHYA PRADESH)**
- 2. JOINT DIRECTOR, EDUCATION, REWA DIVISION,  
(MADHYA PRADESH)**
- 3. COLLECTOR, DISTRICT REWA, (MADHYA  
PRADESH)**
- 4. THE DISTRICT EDUCATION OFFICER, REWA,  
DISTRICT REWA (MADHYA PRADESH)**
- 5. THE CHIEF EXECUTIVE OFFICER, JILA  
PANCHAYAT, TEOTHAR, DISTRICT REWA  
(MADHYA PRADESH)**
- 6. THE CHIEF EXECUTIVE OFFICER, JANPAD  
PANCHAYAT TEOTHAR, DISTRICT REWA  
(MADHYA PRADESH)**
- 7. THE PRINCIPAL, GOVERNMENT HIGHER  
SECONDARY SCHOOL, KATRA, TAHSIL TEOTHAR,  
DISTRICT REWA (MADHYA PRADESH)**

**.....RESPONDENTS**

*This petition coming on for admission this day, the court passed the following:*

**ORDER**

With the consent of learned counsel for the parties, the writ petition is heard finally.

2. The singular point needs determination in this case is regarding the age of retirement of petitioner working as *Sahayak Adhyapak* in Adhyapak Samvarg (cadre).

3. The petitioner was working as *Shiksha Karmi*, Grade-III and by order dated 11.10.2007 (Annexure RJ-1), he was absorbed as *Sahayak Adhyapak*. The respondents by order dated 18.10.2016 (Annexure P-1) retired the petitioner on attaining the age of 60 years.

4. Shri Sanjay Singh, learned counsel for the petitioner submits that after having been absorbed as *Sahayak Adhyapak*, the petitioner's services are governed by statutory rules namely **Madhya Pradesh Panchyat Adhyapak Samvarg (Employment & Conditions of Services) Rules 2008** made in exercise of power confirmed under Sub Section 1 of Section 95 r/w Sub Section 2 of Section 70 of **M.P. Panchyat Raj Avam Gram Swaraj Adhiniyam 1993**. As per Rule 8 (d), r/w Schedule-I, of Rules of 2008, the petitioner's post (*Sahayak Adhapak*) is classified in 'Adhyapak Samvarg' and, therefore, he was entitled to retire on attaining the age of superannuation on completion of 62 years of service. The respondents have committed an error by holding that since his total period of service is less than 20 years, he is bound to retire on attaining the age of 60 years. For this purpose, the **F.R. 56 (1-A)** is also relied upon.

5. Shri Pranjal Diwakar, learned Panel Lawyer for the respondent-State of M.P. opposed the prayer on the basis of return.

6. **Para-3** of the return reads as under:-

"The answering respondents most respectfully submit that the age of superannuation of the government teacher is governed by Fundamental Rules 56 (1-A) whereby subject to the provisions of sub -rule (2), every Government Teacher shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty two years. The explanation appended to Rule 56 explains the word 'Teacher' which means a Government servant by whatever designation called, appointed for the purpose of teaching in Government educational institution who has been engaged in teaching for not less than 20 years. In view of the Fundamental Rules 56 if the employee who has completed 20 years of teaching can only be called as Teacher and who shall be retired from service after completion of 62 years of age but, in the case of the petitioner, the petitioner has not completed 20 years of age in educational institution. Initially, the petitioner was engaged as a Shiksha Karmi on temporary basis for the academic session 1995-96. A copy of the said order is already on record as Annexure P-2. By the said order, the petitioner was appointed only for the one academic session. Thereafter, in the year, 1998 he was appointed as Shiksha Karmi Grade -III and subsequently, he was absorbed as Sahayak Adhyapak from 2007.'

7. Heavy reliance is placed by the the State on **F.R. 56 (1-A)** and explanation appended to it. The same reads as under:-

'(1-A) Subject to the provisions of sub-rule (2), every Government Teacher other than a Govenrment Teacher mentioned in sub rules (1-g), (1-h) 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 two years:

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

**Explanation :-** For the purpose of this sub-rule, "Government Teacher" means a Government Teacher, other than a Government Teacher mentioned in sub - rules (1-g), (1-h) and (1-i), by whatever designation called, appointed for the purpose of teaching in a Government educational institution in accordance with the recruitment rules applicable to such appointment 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.

8. A careful reading of clause (1-A) makes it clear that age of retirement of Government Teacher is mentioned as 62 years in the main provision. On a specific query from the Bench, learned Panel Lawyer for the State fairly submitted that the petitioner is not one such Government Teacher, who is covered under Sub Rules (1-g), (1-h) and (1-i) for whom the age of retirement may be different.

9. So far 'explanation' is concerned, a careful reading of the same shows that except the teachers mentioned in aforesaid sub Rules any other teacher by whatever designation called appointed for the purpose of teaching and shall also include a teacher who appointed on administrative post will hold a lien on a post in concerned Government Educational Institution. A plain reading of 'explanation' shows that it talks about '*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 20 years .....*' The impugned order shows that it has taken inspiration only from this quoted portion of the 'explanation'. A complete reading of the 'explanation' shows that it covers all Government Teachers by whatever designation called except those who are covered under sub Rules (1-g), (1-h) and (1-i) and apart from that, other teachers working on administrative posts were also included. The condition of engagement in teaching for not less than 20 years is applicable to such teacher, who has been appointed to an administrative post by promotion or otherwise. It is nobody's case that petitioner was one such teacher, who was appointed to an administrative post by promotion or otherwise. Thus, there was no requirement for the petitioner, a *Sahayak Adhyapak* to render 20 years of service as per the said 'explanation'. Thus, the bare perusal of explanation shows that it is very wide and covers the case of *Sahayak Adhyapak* in Adhyapak cadre.

10. In view of aforesaid analysis and a conjoint reading of the Rules of 2008 and F.R. 56 (1-A) makes it clear that petitioner's age of retirement was 62 years.

11. The respondents have committed an error in retiring the petitioner pre-maturely whereas he was entitled to continue in employment till attaining the age of 62 years. Thus, the impugned order dated 18.10.2016 (Annexure P-1) is **set aside**. The respondents shall treat the petitioner in employment for all practical purposes till he attained the age of 62 years and shall provide him all consequential benefits. This order shall be complied within 60 days from the date of production of certified copy of this order.

12. The petition is **allowed**.

bks

