



IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SURESH KUMAR KAIT,  
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 22<sup>nd</sup> OF APRIL, 2025

WRIT APPEAL No. 1898 of 2024

*ANUP SAXENA*

*Versus*

*THE STATE OF MADHYA PRADESH AND OTHERS*

.....  
Appearance:

Shri Shikhar Jat - Advocate for appellant.

Shri Ritwik Parashar - Govt. Advocate for respondents/State.  
.....

ORDER

*Per. Hon'ble Shri Justice Suresh Kumar Kait, Chief Justice*

The appellant has prayed for following relief in this writ appeal :-

*(i) Allow the appeal by setting-aside the impugned order dated 08.08.2024 passed by learned Single Judge in W.P. No.21755/2024 (Annexure A/1), in the interest of justice.*

*(ii) The Hon'ble Court further may kindly be pleased to remit the case to the learned Single Judge to consider and decide the case of the appellant in the light of judgment passed in W.A. No.1184/2013 (Mahesh Gunjele Vs. State of M.P.) vide Annexure P/5, in the interest of justice.*

*(iii) Issue any other order as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.*

2. The case of the appellant is that Central Government floated a



scheme called as Vocational Education Scheme (Vyavsayik Shiksha) which was adopted by the respondent i.e. State Government of M.P. and with the appointment to the appellant as Part Time Teacher under the Vocational Education Scheme on 05.11.1990 as Teacher in Computer Application.

3. Thereafter, Department of School Education, Mantralaya, Vallabh Bhawan, Bhopal passed order dated 23.05.1998 by which policy was framed for similarly situated employees to be appointed as Lab Assistant (Annexure P/2). The appellant approached before the respondent on behalf of M.P. Part Time Vyavsayik Sangh by filing representation for the compliance of cabinet decision taken by the State Government as well as order passed by the State Government i.e. School Education Department but same was not considered by the respondent.

4. Being aggrieved, the appellant approached this Court by filing Writ Petition No. 17920/2012 which was finally decided on 29.10.2012 with following direction:-

*“Keeping view the aforesaid grounds raised by the petitioner without entering in to the controversy, respondents are directed to examine the case of the petitioner in the light of action taken in the case of Surendra Kumar Gupta and a speaking order be passed within a period of two months from the date of receipt of certified copy of this Order.”*

5. In compliance of order passed by this Court, the appellant submitted representation which was finally decided on 17.09.2013 and rejected the same on the ground that the case of appellant is not covered to the case of Surendra Kumar Gupta as also as per the rules of Tribal Welfare Department that there is no provision for regularizing the services of the



appellant and it was further stated that the post of Lab Assistant for direct recruitment is declared dying cadre hence the appellant's appointment on the post of Lab Assistant is not possible.(Annexure P/4).

6. Being aggrieved by the aforesaid order, the appellant filed writ petition before writ Court on the ground that the appellant's case is squarely covered by the judgment passed in W.A. No. 1187/2013 (Mahesh Gunjele Vs. State of M.P.) decided on 26.11.2015 by the Division Bench of this Court (Annexure P/5). Against that the State Government filed S.L.P. which was also dismissed by the Apex Court vide its order dated 26.10.2016 (Annexure -P/6). However, the writ Court vide its order dated 08.08.2024 dismissed the writ petition filed by appellant only on the ground of delay. Learned writ Court also considered a number of judgments of the Apex Court in respect of delay and latches but as argued by the appellant, the learned writ Court failed to maintain the parity in the similarly situated number of candidates approached this Court and their petitions were allowed by the Co-ordinate Bench of this Court.

7. Learned counsel for appellant submits that a candidate Saroj Kumar Sharma approached this Court by filing W.P. No.10931/2024 wherein he has challenged the order dated 08.05.2017 wherein the claim of Saroj Kumar Sharma has been rejected by the respondents but this Court considered the case of Saroj Kumar Sharma and same was disposed off with direction to respondents to consider the case of petitioner therein in accordance with policy/circular of the State Government dated 20.01.1998 and 23.05.1998, Cabinet decision dated 07.08.2007 will not affect the



scrutiny of case of appellant for considering him for appointment/recruitment on the post of Lab Assistant Teacher (Science), if posts are not there then State Government was directed to create the post in accordance with Circular dated 20.01.1998 and 23.05.1998, if petitioner has all the requisite qualification required for being appointed as per circular dated 20.01.1998 and 23.05.1998 then respondent shall consider the case of petitioner and pass appropriate order within period of three months.

8. Another candidate namely Maniraj Kumar Patel also filed W.P. No.11355/2024 by challenging the rejection order dated 30.10.2012 where petition was also disposed off in the light of judgment of Division Bench of this Court in W.A. No. 1187/2013 (Mahesh Gunjele Vs. State of M.P. and another) decided on 26.11.2015.

9. Similarly, other candidate, namely, Deependra Choubey also filed W.P. No.9355/2024 and the same was allowed.

10. This Court put a specific query to the counsel for the appellant that how the appellant is similarly situated along with the candidates mentioned above. First of all, they were not the same department and the counsel for the appellant is not aware that what were the facts, under what provision rejection order was passed and for what reason.

11. In the present case, the writ Court has mentioned that appellant's claim for appointment on the post of Lab Assistant in accordance with the Circular/policy of the State was considered and rejected by the respondents vide order dated 17.09.2013 in pursuance to the order dated 29.10.2012 passed by this Court in earlier round of litigation i.e. W.P. No.17920/2012.



Thereafter the appellant continued to be in slumber, however, filed a petition in the year 2024 and, therefore, the writ Court while relying upon various judgments of Supreme Court including *Ashok Kumar Vs. District Magistrate Basti*, (2012) 3 SCC 311 whereby it was held that it is time and again stated that a party who has slept over his rights is not entitled to the discretionary relief of the High Court, rejected the petition.

12. It is not in dispute that the appellant continued for almost 11 years in his slumber and thereafter filed a writ petition in the year 2024. Accordingly, the writ Court has rightly rejected the petition on the ground of delay and laches.

13. In view of above, finding no merit in the present appeal, the same is accordingly, **dismissed**.

(SURESH KUMAR KAIT)  
CHIEF JUSTICE

(VIVEK JAIN)  
JUDGE

Biswal