

S.B.CIVIL WRIT PETITION NO. 5441/2002

Ved Prakash Sharma

Versus.

The President, Governing Body of National Institute of Ayurveda, Jaipur and Union Minister for Health and Family Welfare, government of India and others.

28/04/2006

HON'BLE MR.JUSTICE ASHOK PARIHAR.

Mr. RL Jain, for the petitioner.

Mr. MD Agarwal]

Dr. AK Sharma], for the respondents.

Petitioner was initially appointed as Lecturer in Ayurveda Vishwa Bharti College, Sardarsahar w.e.f. 08/07/1959. On closure of the above college and the same been taken over by the State Government, the petitioner was absorbed as Lecturer in the Ayurved Department, Government of Rajasthan vide order dated 16/06/1972. Subsequently, on establishment of National Institute of Ayurveda, the employees working in the Government Ayurved College, Jaipur were sent to the National Institute of Ayurveda (in short the Institute) on deputation w.e.f. 01/06/1976. Subsequently, on lien from the State Government been terminated w.e.f. 01/04/1983, the petitioner and other such employees were absorbed in the services of the Institute w.e.f. 01/04/1983. The petitioner was absorbed on the post of Assistant Professor as per recommendations of the Screening committee treating the petitioner been working as Lecturer under the State Government. The petitioner was given further promotions to the post of Associate Professor and Professor as per recommendations of the Departmental Promotion Committee from time to time. The petitioner stood retired from service on reaching the age of superannuation from the post of Professor w.e.f. 30/06/1996 from the services of the

Institute.

It appears that the petitioner had some grievance in regard to seniority and promotion while he was in service of the State Government. After retirement from the services of the Institute the petitioner also preferred an appeal before the Rajasthan Civil Services Appellate Tribunal, Jaipur seeking promotion to the post of Professor in the Ayurved Department from the year 1976. The above prayer was made challenging the order dated 17/08/1996 passed by the respondent-State promoting the petitioner on the post of Professor on the basis of seniority-cum-merit w.e.f. 27/04/1981. The Tribunal, while allowing the appeal vide order dated 07/09/1998, modified the order dated 17/08/1996 directing the respondent-State to promote the petitioner on the post of Professor w.e.f. 09/12/1976. The above order dated 07/09/1998 passed by the Tribunal further came to be affirmed by this Court vide order dated 03/07/2000 in SB Civil Writ Petition No. 2688/2000, State Vs. Ved Prakash and others. Consequently, another order was issued by the respondent-State on 18/01/2001 by which the petitioner was promoted to the post of Professor w.e.f. 09/12/1976. In the above order dated 18/01/2001, it has further been mentioned that the financial and other consequential benefits shall be given by the Institute. The petitioner is seeking compliance of the above order dated 18/01/2001 in the present writ petition.

An unfortunate contradictory stand appears to have been taken by the respondent-State as also the Institute in the present case. Both the parties are shifting burden on each other. The State Government is asking the petitioner to claim benefits from the Institute whereas the Institute is denying any such liability on the basis of benefits already granted to the petitioner as per his absorption in the year 1983.

After hearing counsel for the parties, I have carefully gone through entire material on record.

There cannot be any dispute that the petitioner has to be treated as Professor in the services of the State Government w.e.f. 09/12/1976 till his lien is terminated on 01/04/1983. The benefit as granted by the Tribunal has to be given by the State Government till the above date. However, since the relief has been granted to the petitioner by the Tribunal and this Court only in July, 2000, the consequential benefits have also to be granted by the Institute. Earlier, the petitioner was absorbed in the services of the Institute treating him to be Lecturer in the services of the State Government, however, now since the petitioner has to be treated as Professor w.e.f. 09/12/1976, he has to be absorbed in the services of the Institute accordingly w.e.f. 01/04/1983. Consequential benefits have to be granted by the Institute after 01/04/1983. It goes without saying that if the petitioner is absorbed in the Institute on a higher post w.e.f. 01/04/1983 on the basis of treating him to be working as Professor in the State Government, the Institute has also to grant him other consequential benefits till his date of retirement including revision of his all retiral benefits. Necessary consideration be made and orders be passed by both the parties i.e. the State Government as also the Institute within thirty days from the date of receipt of certified copy of this order and arrears may also be paid within thirty days thereafter.

The writ petition is disposed of accordingly.

(Ashok Parihar), J.