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W. P. No. 9110 / 2013

31/07/2013

Mr. G. P. Singh, learned counsel for the petitioner.

Mrs. N Abhyankar, learned counsel for the respondent State.

The petitioner before this Court has filed this present writ petition claiming regularization in service w.e.f. 4/7/98.

Learned counsel for the petitioner, at the outset, has drawn attention of this Court towards the order dt. 28/6/13 passed in Writ Petition No. 701/12 (Dinesh Vs. State of Madhya Pradesh ) and his contention is that the petitioner is an identically placed employee and is entitled for similar relief which has been extended to identically placed person.

Learned counsel for the respondent State has not disputed the judgment of this Court in the case of Dinesh Vs. State of Madhya Pradesh (supra) wherein this Court has held as under :

**WP No.701/2012**

**28/06/2013 :-**

Petitioners by Mr. Gourav Shrivastava with Mr. GP Singh, advocates.

Respondents by Mrs. Vinita Phaye, GA.

With the consent matter is heard finally.

**ORDER**

This order shall also govern the disposal of W.P. Nos.412/2012 and 3261/2012.

2. The prayer in this petition is that respondents be directed to consider the case of petitioners and grant promotion in the seniority list.

3. Learned counsel for the petitioner submits that petitioners are working on the post of Assistant Teacher and was appointed after due process vide order dated 04/07/1998, thereafter services of the petitioners were terminated vide order dated 30/12/1998. It is submitted that the order of termination was challenged by the petitioners and other similarly situated employees and vide order dated 07/01/2000 passed in W.P. No.470/1999 whereby the order of termination dated 30/12/1998 was set-aside holding that it was passed without giving an opportunity of hearing to the petitioners. It is submitted that it was further ordered by this Court that Collector will issue fresh individual notice to every petitioner indicating the proposed action as contemplated against every individual petitioner and after taking their replies would decide their matter after giving them full right of audience. It is submitted that in compliance of the order passed by this Court petitioner was again appointed on 10/03/1999. It is submitted that services of the petitioners have been regularized on 10/03/1999 while petitioners are entitled for regularization w.e.f. 04/07/1998. It is submitted that petition be allowed and necessary directions be issued.

4. Learned counsel for the respondents supports action of respondents and submit that in compliance of the order passed by this Court whereby order dated 30/12/1998 was set-aside and case of each of the petitioner was examined and fresh order was passed on 10/03/1999, therefore, services of the petitioner has rightly taken into consideration w.e.f. 10/03/1999. It is submitted that petition be dismissed.

5. From perusal of record, it appears

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that petitioners were appointed vide order dated 04/07/1998 and thereafter services of the petitioners were terminated vide order dated 30/12/1998. The order was challenged by the petitioners before this Court and in compliance of that orders were passed. Since petitioners were working right from 04/07/1998, therefore, order dated 30/12/1998 was quashed, therefore, there was no justification in not giving the benefit of regularization w.e.f. initiate date of joining i.e. 04/07/1998. In view of this, petition filed by the petitioners is allowed and respondents are directed to give the benefit of regularization to the date when the petitioners were appointed initially i.e. on 04/07/1998. Consequential orders be passed within 3 months.

6. With the aforesaid observation, petition stands disposed of. Copy of the order be kept in the records of all the connected cases. C.C. as per rules.

(N.K. MODY)  
Judge

No Writ Appeal has been preferred by the State Government in the matter and, therefore, in order to maintain parity, the present Writ Petition is also allowed. The respondents are directed to grant the benefit of regularization from the date the petitioner was initially appointed ie., 4/7/98. Consequential orders be passed within 3 months.

(S. C. SHARMA)  
J U D G E

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