

THE HIGH COURT OF MADHYA PRADESH
BENCH AT GWALIOR

(DIVISION BENCH)

Writ Appeal No.277/2019

Samant Singh Kushwaha	Versus Appellant
State of M.P. & Ors.	 Respondents

CORAM

Hon. Mr. Justice Ravi Malimath, Chief Justice.

Hon. Mr. Justice Deepak Kumar Agarwal, Judge.

Presence

Shri D.S.Raghuwanshi, learned counsel for the appellant.

Shri Deepak Khot, learned Govt. Advocate for the respondents/State.

Shri Alok Sharma, learned counsel for respondent No.3.

ORDER

(30th November, 2021)

PER JUSTICE DEEPAK KUMAR AGARWAL

In the instant appeal preferred under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005, cogency and substantiality of order dated 31.1.2019 passed in W.P.No.5168/2008 has been called in question.

2. In brief the case of the petitioner/appellant is that he was appointed by order dated 18.10.2006 as Samvida Shala Shikshak, Grade III, on contract basis for a period of three years on a fixed remuneration of Rs.2,500/- per month. The appointment was subject to annual reassessment and if services were found satisfactory, then extension of further three years was to be given. The appointment was also subject to verification of the documents relating to eligibility. The experience certificate of appellant on verification by District Education Officer was not found genuine and as a result thereof, his appointment was cancelled vide order dated 28.3.2007. Thereafter in appeal the order dated 28.3.2007 was set aside and matter was remitted to the competent authority for reconsideration on the ground that opportunity of hearing was not afforded.

3. The learned Single Judge while dismissing the writ petition held that as there was non-revival of appointment order, there is no legal right to the petitioner to seek a mandamus of reinstatement or a direction to the authorities to give him joining as Samvida Shala Shikshak which was only for a period of three years. Further learned Single Judge held that it was upon the authorities to whom the matter was remitted to reconsider the same. Non-consideration will not create a right of appointment. It only creates a right for direction for consideration in terms of

remand order. However, said relief is not sought by the petitioner.

4. Upon perusal of the impugned order, we do not find any error in the impugned order passed by the learned Single Judge warranting any interference. Writ appeal sans merit and is hereby dismissed.

Pending interlocutory application(s), if any, is also disposed off.

(RAVI MALIMATH)
CHIEF JUSTICE

(DEEPAK KUMAR AGARWAL)
JUDGE

ms/-