

HIGH COURT OF MADHYA PRADESH

Bench: Justice Sujoy Paul

Date of Decision: 26 October 2023

WRIT PETITION No. 2472 of 2023

 VIRENDRA KUMAR GUPTA: WORKING ATEACHING STAFF IN
 MAHATMA GANDHI CHITRAKOOT GRAMODAYA

VISHWAVIDYALAYA SATNA
.....PETITIONER
Versus

1. **THE STATE OF MADHYA PRADESH THROUGH
 PRINCIPAL SECRETARY MINISTRY OF HIGHER
 EDUCATION DEPARTMENT VALLABH BHAWAN
 BHOPAL (MADHYA PRADESH)**
2. **MAHATMA GANDHI CHITRAKOOT GRAMODYA
 VISHWAVIDYALAYA THROUGH ITS REGISTRAR
 DISTT. SATNA (MADHYA PRADESH)**
3. **DEAN FACULTY OF ENGINEERING AND TECHNOLOGY
 CHITRAKOOT GRAMODYA
 VISHWAVIDYALAYA DISTT. SATNA (MADHYA
 PRADESH)**

.....RESPONDENTS
(SHRI PARITOSH GUPTA - ADVOCATE FOR RESPONDENT NOS.2 & 3)
Section, Acts, Rules, and Articles:

 Section 2(l) of the Mahatma Gandhi Chittrakoot Gramodaya Vishwavidhyalaya
 Adhiniyam, 1991

Subject: Determination of retirement age for the petitioner, who works as a
 teaching staff at Mahatma Gandhi Chittrakoot Gramodaya Vishwavidhyalaya

Headnotes:

Writ Petition – Retirement Age – Petitioner challenges the university’s decision to retire him at age 62, asserting his role as teaching staff should extend his retirement age to 65 like other teachers. [Para 2-3]

Employment Status – Assistant Engineer – The respondent, Mahatma Gandhi Chitrakoot Gramodaya Vishwavidhyalaya, clarified that the petitioner’s substantive post is Assistant Engineer, with all benefits attached to that post, determining his retirement age as 62. [Para 4]

Legal Definition – “Teachers of the University” – Court emphasizes the specific definition under Section 2(l) of the Mahatma Gandhi Chitrakoot Gramodaya Vishwavidhyalaya Adhiniyam, 1991, indicating the petitioner was not ‘appointed’ for teaching. [Para 7-8]

Temporary Arrangement – Not a teacher – Court rules that the petitioner’s involvement in teaching activities was a temporary measure due to a shortage of teachers, not sufficient to classify him as a “Teacher of the University.” [Para 8]

Decision – Petition Dismissed – Court dismisses the petition, holding the petitioner’s retirement age to be 62 years as per university’s notification dated 16/08/2018. [Para 9]

Referred Cases: None.

Representing Advocates:

For Petitioner: Shri Dharmendra Soni Advocate

For Respondents: Shri Paritosh Gupta Advocate for Respondent Nos. 2 & 3

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

ORDER

With the consent, finally heard.

2. The petitioner has prayed for setting aside the order dated 20.12.2022(Annexure P/1) whereby the University decided to retire him on attaining the age of 62 years on 31.10.2023.

3. Shri Dharmendra Soni, learned counsel for the petitioner fairly submits that petitioner's substantive post is Assistant Engineer in the respondent University. On 23.07.2019, the Registrar on the strength of decision of Academic Council passed the order dated 23.07.2019 (Annexure P/5) and decided to take teaching work from the petitioner. Thus, in the teeth of Section 2(l) of the Mahatma Gandhi Chitrakoot Gramodaya Vishwavidhyalaya Adhinyam, 1991, petitioner for all purposes should be treated to be involved in imparting instructions and therefore, his age of superannuation should be equivalent to that of Teachers, i.e. 65 years. The respondents have committed an error in ignoring their own memorandum dated 23.07.2019 (Annexure P/5). Thus, it is prayed that petitioner is entitled to continue in employment till attaining the age of 65 years.

4. Shri Paritosh Gupta, learned counsel for the University submits that the documents annexed with the return shows that petitioner's substantive post is Assistant Engineer. He got all benefits which are attached to the post of Assistant Engineer. The document dated 16.08.2018 (Annexure R/7) shows that for other than teaching staff/employees, the age of superannuation is 62 years. Petitioner cannot be treated to be a "Teacher of the University".

5. The parties confined their arguments to the extent indicated above.

6. I have heard the parties at length and perused the record.

7. Before dealing with rival contention, it is apposite to reproduce the definition of "Teachers of the University" which reads as under :-

"2(l) 'Teachers of the University' means professors, Readers, Assistant Professors, Lecturers and such other persons as may be appointed for imparting instruction or conducting research with the approval of the Academic Council in the University or any College or Institution maintained or recognized by the University."

(Emphasis supplied)

8. Indisputably, the petitioner was never appointed to impart instruction or conducting research. The expression 'appointed for imparting

instruction or conducting research' is of utmost significance. The petitioner was never 'appointed' for the said purpose. A microscopic reading of memorandum dated 23/07/2019 (Annexure P/5) shows that because of paucity of teachers, a decision was taken to take help of petitioner in educational activities. This temporary and stop gap arrangement does not bring the petitioner within the ambit of 'Teacher of the University'. Thus, the petitioner cannot claim age of retirement which is applicable to a "Teacher of the University". Instead, petitioner is entitled to continue up to the age of 62 years only in the light of the notification dated 16/08/2018 (Annexure R/1).

9. The petition is devoid of substance and is hereby **dismissed**.

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