

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3270 of 2011**

Dr. Jagjivan Lal Uike, S/o Shri S. L Vike, age about 44 years,
Working as Child Specialist, Community Health Center, Charama,
District Kanker (C.G.)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through its Secretary, Department of Health & Family Welfare Department, D.K.S. Bhawan, Raipur, Chhattisgarh.
2. Director, Health Services, Old Nurses Hostel, DKS Bhawan Campus, Raipur, Chhattisgarh
3. Chief Medical Officer, Kanker, Chhattisgarh.
4. Dr. Rama Singh, Wife of Prem Sai Singh, W/As District Immunisation Officer, Office of Chief Medical & Health Officer, Raipur, Chhattisgarh.
5. Dr. Vedram Singh, S/o Not Known to the petitioner, W/As Child Specialist, District Hospital, Surguja, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Ali Asgar, Advocate.
For State	:	Ms. Ishwari Ghritlahre, PL

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/10/2019**

1. The present writ petition has been filed seeking for a direction to the respondents to redraw the seniority of the petitioner and thereafter he be placed over and above respondent No.4 & 5 and also has sought for granting of consequential promotions with retrospective effect.
2. Brief facts of the case in nut shell are that the petitioner was appointed on ad-hoc basis vide order dated 28.06.1993 after due

process of selection by the State Government. It is relevant at this juncture to mention that the need for making ad-hoc appointment was that there was a huge vacancy of Doctors in the erstwhile State of Madhya Pradesh during the period 1991,1992,1993 & 1994 in order to ensure providing prompt medical services to the general public at large, the Government decided to make certain ad-hoc appointment till a regular appointment was made in accordance with the service Rules governing the field through the State Public Service Commission. As a consequence the Government initiated a recruitment drive for ad-hoc appointment. The petitioner applied for the same and after undergoing a due selection process was selected and vide Annexure P-2 dated 28.06.1993 the petitioner was appointed on ad-hoc. The petitioner immediately assumed his duties and since then continued to discharge his duties uninterruptedly at different places of posting given by the respondent.

3. While working as a ad-hoc Doctor the respondent State in 1996 through the State Public Service Commission started a recruitment drive on regular basis, the petitioner also participated in the said recruitment process initiated by the State Public Service Commission and got selected. Since the petitioner on appointment was being given posting at a remote place far away from his present place of posting, the petitioner showed his reluctance in giving joining rather made a representation to State Government seeking modification in the place of posting. Meanwhile, State Government continued to take the services of the petitioner as Ad-hoc Doctor and also did not cancel the regular appointment order made on 14.06.1996. That subsequently in the year 1997 the Government accepted the objection of the petitioner and similarly placed persons who had also raised objection and the Government accepted their

appointment on regular basis by modifying the place of posting vide their amendment order dated 08.09.1997. Since then the petitioner is continuously working as Doctor under the respondent. Now the grievance of the petitioner is that the petitioner is being granted seniority only from the date of regular appointment made in the year 1996 and respondents are not considering the services of the petitioner rendered by the petitioner since 1993.

4. The contention of the petitioner is that the persons who were appointed along with the petitioner on ad-hoc basis vide order dated 28.06.1993 in the erstwhile State of Madhya Pradesh and who stood allocated to the State of Madhya Pradesh on the creation of the State of Chhattisgarh have been granted the benefit of seniority from the date of initial appointment i.e. from 28.06.1993. It was also the contention of the petitioner that, had the petitioner also remained in the State of Madhya Pradesh or opted to the State of Madhya Pradesh, the petitioner also would have got the benefit of seniority from the initial date of appointment and thereafter also would have received timely promotions considering his seniority from 1993 onwards. According to the petitioner the erstwhile State of Madhya Pradesh immediately before the creation of State of Chhattisgarh vide Annexure P-6 dated 12.02.1998 had reviewed the claim of the petitioner for granting seniority from the date of their ad-hoc appointment and the Government had granted the advantage to all those persons who were appointed along with the petitioner on ad-hoc basis and granted seniority from the initial date of appointment. However, this advantage could not be extended to the petitioner for the reason petitioner incidentally meanwhile got allocated to the State of Chhattisgarh.

5. State counsel on the other hand opposing the petition submits that admittedly the appointment of the petitioner Annexure P-2 was firstly on temporary basis and secondly purely on ad-hoc till a regular appointment in accordance with law was made. State counsel therefore contended that the petitioner does not have any indefeasible right. According to the State counsel since the petitioner subsequently had appeared in the regular recruitment process and had got selected the petitioner can get the seniority only from the date the regular appointment are made i.e. on 14.06.1996 and not for the period beyond that. Thus, prayed for the rejection of the writ petition.
6. Having heard the contentions put forth on either side and on perusal of record what is admitted from the factual matrix of the case is that the petitioner was initially appointed on ad-hoc basis on 28.06.1993. The petitioner continuously worked on the said post and later on the petitioner also participated in the regular recruitment initiated by the State Public Service Commission and petitioner got selected.
7. Now what has to be seen is whether the petitioner would be entitled for the seniority from the date of his ad-hoc appointment or from the date of regular appointment. According to the petitioner the Doctors who were appointed along with the petitioner vide order dated 28.06.1993 and 16.09.1993 who were also appointed on ad-hoc basis have been subsequently granted seniority from the date of initial appointment of 1993. What cannot be lost sight of the fact that petitioner had been subjected to a recruitment process on both the occasions that is first when he was appointed on ad-hoc basis vide order dated 28.06.1993 and secondly when he had participated in the recruitment drive for regular Doctors by the Government through the Public Service

Commission. Therefore, under no circumstances can the petitioner's services be held to be in any manner illegal.

8. Given the aforesaid situations, this Court is of the opinion, let respondents consider the case of the petitioner also at par with other Doctors appointed along with the petitioner and in the event if those Doctors have been granted the benefit of seniority from the date of their initial appointment that is from the date of their appointment as ad-hoc Doctor vide order dated 28.06.1993 and 16.09.1993 the petitioner also be granted similar benefits. The petitioner cannot be denied the benefit of seniority when his colleagues who were appointed along with him have been granted the same, only for the reason that petitioner on allocation stood allocated to the State of Chhattisgarh. Had the petitioner's services remained in State of Madhya Pradesh, the petitioner would have been treated at par. Accordingly, the respondents are directed to call for the records so far as seniority that has been granted in the State of Madhya Pradesh particularly, to the Doctors who were appointed vide order dated 28.06.1993 and 16.09.1993 in which the petitioner was appointed and after due verification of facts an appropriate order so far as grant of seniority is concerned be passed.
9. Let this exercise be concluded by the respondents within a period of four months from the date of receipt of copy of this order.
10. With the aforesaid directions, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge