

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WP No. 2538 of 2005**

- B. B. Ahluwalia, Aged About 18 Years, S/o Shri K. D. Ahluwalia, Dental Surgeon, R/o Tatyapara, Raipur (C.G.)

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh through the Secretary, Department of Health and Family Welfare, D. K. S. Bhawan, Raipur (C.G.)
2. Dean, Pt. Jawahar Lal Nehru Medical College, Raipur (C.G.)
3. The Director, Department of Medical Education, Raipur (C.G.)
4. The Director, Department of Public Health, Raipur (C.G.)

**---- Respondents**

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| For Petitioner       | Shri S. S. Rajput, Advocate and Shri Sharad Mishra, Advocate |
| For Respondent-State | Shri R. S. Baghel, Dy. AG                                    |

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**Hon'ble Justice Shri Prashant Kumar Mishra**

**Order On Board**

**22/08/2019**

1. In this petition under Article 226 of the Constitution of India, the petitioner would call in question the legality and validity of the order (Annexure-P-1), whereby he has been informed that he shall be retiring on 30.11.2014 on attaining the age of superannuation.
2. Petitioner joined services as Dental Surgeon (Class-II) at Dhar (M.P.). On 08.09.1970, he was promoted as Dental Surgeon at a higher scale and was posted in the D. K. Hospital, Raipur. He was posted at District Hospital, Durg on 14.06.1983 but was again brought back to the D. K.

Hospital, Raipur in November, 1983. He was granted promotion on the post of Dental Specialist on 11.05.1983 where he remained posted till his retirement.

3. Petitioner claims that he having worked as teacher at different point of time, he should have been retired at the age of 62 years in terms of the amendment made in the Madhya Pradesh Government Servant (Age of Superannuation) 2<sup>nd</sup> Amendment Act, 1998. Referring to the explanation inserted to Rule 56 (1-a), learned counsel would argue that if any person is appointed for imparting teaching in any medical or technical college, he shall be deemed to be a teacher and similarly any person promoted on any administrative post but was initially appointed as teacher shall also be deemed to be a teacher for the purposes of application of the age of superannuation to a teacher.
4. Learned State counsel would submit that even if the petitioner was engaged for imparting teaching in the Medical College, Raipur, in the Department of Dentistry, as and when needed, that would not amount to an appointment to a teaching post. He would submit that unless and until the petitioner is appointed either substantively or otherwise to a teaching post, merely on account of imparting teaching for few months or years, he will not become a teacher.
5. True it is that the certificate filed by the petitioner along with application for taking document on record discloses that he had officiated as Lecturer in Dentistry from July, 1971 to March, 1973 and was also looking after the duties of lecturer in Dentistry whenever the lecturer went on vacation or earned a casual leave since 05.10.1970 and whenever needed thereafter. The fact remains that the petitioner was never issued any letter of appointment on teaching post in the Medical

College, Raipur. At all relevant point of time, he remained posted in the D. K. Hospital, Raipur. Even if the said hospital was attached with the Medical College, Raipur and the petitioner was engaged to teach on few occasions, his appointment would not be converted as a teacher unless specific order is issued by the Government in this regard. If the contention raised by the petitioner is accepted, then every employee on the administrative or ministerial side in the medical or technical college would become a teacher if he is allowed to impart teaching for few months. For application of the amended provision of the superannuation Rules, 1967, the substantive appointment of an employee/officer has to be on a teaching post, by whatever name called. Admittedly, the post of Dental Surgeon in a District Hospital is not a teaching post.

6. For the foregoing, the petitioner has rightly been superannuated at the age of 58 years in accordance with the age of superannuation applicable to a dental specialist.
7. There is no substance in this writ petition. It fails and is hereby dismissed.

Sd/-  
Prashant Kumar Mishra  
Judge

Nirala