

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 345 of 2020**

(Arising out of order dated 14.02.2020 passed by the learned Single Judge in WPS No.6150 of 2006)

- Allena Anjani Kumar S/o Late Shri A. Raghavam aged 52 years, presently working as Deputy Registrar, High Court of Chhattisgarh, Bilaspur Chhattisgarh, R/o Plot No. 36, Rb Green Vihar, Near Sai Vihar, Yadunandan Nagar , Tifra , Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. High Court of Chhattisgarh, through Registrar General, Bilaspur, Chhattisgarh
2. State of Chhattisgarh, through Secretary, General Administration Department , D.K.S. Building , Mantralaya , Raipur Chhattisgarh.
3. Shri S. Somayajulu S/o Shri S.G.K. Suryanarayana Murthy Presently Working As Deputy Registrar, High Court of Chhattisgarh, Bilaspur
4. Shri K. Venkata Rao S/o Late K.K. Rao Presently Working as Deputy Registrar, High Court of Chhattisgarh, Bilaspur

---- Respondents

For Appellant	: Shri Vinod Deshmukh, Advocate
For Respondent No.1	: None
For Respondent No.2/State	: Shri Vikram Sharma, Deputy Advocate General
For Respondents No.3 & 4	: None

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****P. R. Ramachandra Menon, C.J.****14.09.2020**

1. Whether the services rendered by the Appellant as Stenographer / Personal Assistant in the Madhya Pradesh State Administrative Tribunal (M.P. SAT) can be reckoned for calculating the 'seniority' in the

Establishment of High Court of Chhattisgarh, where the Appellant joined pursuant to a new recruitment exercise in the year 2001. The answer given in the 'Negative' by the learned Single Judge in the writ petition filed by the Appellant is put to challenge in this appeal.

2. Heard Shri Vinod Deshmukh, learned counsel for the Appellant as well as Shri Vikram Sharma, the learned Deputy Government Advocate representing the State.
3. The factual matrix brought on record reveals that the Appellant was selected and appointed as 'Stenographer' in the Principal Bench of the M.P. SAT on 24.07.1998, who came to be promoted to the post of 'Personal Assistant' on 22.12.1998. On formation of the State of Chhattisgarh in the year 2000, the High Court in this State came to being and in response to advertisement issued for different posts, including the post of Stenographer on 30.03.2001, the Appellant also put forth the application. On coming out successful in the examination and the interview, the Appellant was appointed as Stenographer as per Annexure/R-1/2 order dated 29.11.2001. It was accordingly that, the Appellant was relieved from M.P. SAT as per Annexure/P-2 on 11.12.2001 and he joined the post of Stenographer in this High Court in the pay scale of 5500-175-9000/-.
4. It is the case of the Appellant that before relieving from the M.P. SAT, he had submitted Annexure-P/7 application to the 1st Respondent / High Court of Chhattisgarh for protection of his pay and to avoid any financial loss. It is stated that it was considered and order dated 16.01.2004 was

passed by the State whereby the pay, which he was drawing at the time of relieving from the M.P. SAT, was protected by giving appropriate placement in the pay-scale attached to the post of Stenographer in the Establishment of the High Court of Chhattisgarh. According to the Appellant, since the service rendered by the Petitioner in the M.P. SAT from 22.12.1998 has been reckoned for granting 'pay protection' in the pay-scale attached to the post of Stenographer in the Establishment of High Court of Chhattisgarh, it shall be reckoned for the purpose of 'seniority' as well and hence the grievance.

5. The claim was resisted from the part of the Respondents in the writ petition. A detailed return was filed on behalf of the 1st Respondent / High Court of Chhattisgarh, also producing copies of the relevant documents including the advertisement for the post and the relevant orders as Annexures/R-1/1 to R-1/5. It was asserted before the Court that, the advertisement issued and the selection conducted was for new appointment to the post of Stenographer. 'Clause 11' of Annexure/R-1/2 clearly mentioned that, the seniority would be counted only as per the placement in the merit list and not from the date of joining. Reference was also made to Fundamental Rule 22 (c) (1); adding that, the only benefit / concession given to the Appellant / Writ Petitioner was the 'pay protection' with intent to rule out the financial loss to the Petitioner.
6. After meticulous analysis of the facts and figures, interference was declined by the learned Single Judge as discernible from paragraphs 6 and 7, which are reproduced below :

“6. I have heard learned counsel for the parties and perused the documents. The only question which comes to fore for adjudication is as to whether the services rendered by the petitioner at State Administration Tribunal Jabalpur from 22.12.1998 can be considered for calculation of the seniority in the establishment of the High Court of Chhattisgarh. The answer appears to be in negative, for the reason that advertisement for appointment by the High Court of Chhattisgarh was made on 30.03.2001 and though the advertisement Clause 3 contains the fact the persons employed in the government or quasi government department should send the application through proper channel or directly sent application does not confer any right to the petitioner that service rendered in such department would be considered. The advertisement was meant for fresh appointment by the High Court of Chhattisgarh which is a sovereign and separate institution. The appointment letter (Annexure R-1/2) dated 29.11.2001, Clause 11 also contains the condition that the seniority would be considered according to the placement in the merit list. Therefore, such condition in appointment letter by implication points out that any work rendered in any other institution prior to such selection would not be considered for seniority. The only protection which was granted by State (Annexure R 1/4) on 16.01.2004 is with respect to the protection to the pay band. Reading of letter specifically shows it was directed that the earlier service rendered would be considered as the services rendered in the erstwhile SAT M.P. and at the time of finalization of the pension, the proportion shall be divided according to the provisions of Re-organization Act which meant to show that the earlier services was not taken into account for purpose of new appointment except the pay protection.

7. Plain and reading of the appointment conditions would show it was a fresh appointment on 29.11.2001, therefore, condition was that of a new employment and therefore 2 years probation was also given being part of new appointment. The petitioner having been rendered services earlier in the SAT the same cannot be considered for purpose of seniority with new appointment made at High Court. Therefore, reckoning of the seniority from the back date in the given facts of the case, can not be allowed. In such circumstances, Court is unable to grant any relief to the petitioner. The petition stands dismissed.”

7. On going through the materials on record including the advertisement issued, it is seen that the notification was for selection of qualified persons to be appointed to the post in question as fresh recruits. Nowhere in the advertisement was it specified that the persons working elsewhere in similar capacity would be granted the benefit of seniority, considering their prior services in the previous establishment as well. The Establishment of the State Administrative Tribunal of the State of Madhya Pradesh is entirely different from the Establishment of High Court of Chhattisgarh. It was not on the basis of any deputation that the Appellant / Writ Petitioner came to the service of the High Court of Chhattisgarh, but through a 'fresh recruitment' process by participating in an examination and interview.
8. During the course of hearing, we put a specific question to the learned counsel for the Appellant as to whether the Appellant could cite any enabling provision, either in the advertisement or in the Service Rules, so as to sustain the relief sought for; which was never answered in the 'Positive'. No such enabling clause, condition or Rule is brought to our notice. Merely for the reason that a concession has been given to the Appellant by giving the 'pay protection', pursuant to the selection and appointment to the post of Stenographer in the Establishment of High Court of Chhattisgarh (based on the pay which he was already drawing for the service rendered in the M.P. SAT under similar capacity), it can never be contended by the Appellant that, it shall automatically be reckoned for the purpose of fixing 'seniority' as well. It was pursuant to a conscious decision taken by the Appellant, that he joined the service of the

Chhattisgarh High Court Establishment, for his own reasons. In the absence of any offer or Rule enabling the Appellant to get the seniority with reference to the service rendered in the M.P. SAT, no higher seniority can be claimed, otherwise than as available to him based on the placement in the merit list. The appeal is devoid of any merit. None of the grounds raised by the Appellant could be held as tenable.

The appeal stands dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge