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WP-39861-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA,
ACTING CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 24th OF JULY, 2026

WRIT PETITION No. 39861 of 2024

DR.ARTI SINGH AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri Satya Prakash Mishra - Advocate for the petitioners.

Shri Anubhav Jain- Government Advocate for respondent/State.
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ORDER

Per. Vivek Rusia, Acting Chief Justice

In the present petition under Article 226 of the Constitution the petitioners have assailed the order dated 22.10.2024 (Annexure-P/6) passed by the respondent No.3/Commissioner, Higher Education Department, whereby their claim for grant of seven additional casual leaves in terms of circular of the General Administration Department dated 05.07.2023 (Annexure-P/2) has been rejected. The petitioners have also prayed for declaring Clause 7.1 of the Circular dated 05.10.2023 (Annexure P-7) as *ultra vires*, in so far as it restricts the leave entitlement of Guest Lecturers to three optional leaves and excludes them from the benefit of the aforesaid welfare circular.

2. The facts of the case, in short, are :-

(i) The petitioners are working as Guest Lecturers ('*Atithi Vidwan*') in various Government Colleges under the Higher Education Department,



Government of Madhya Pradesh. They have been continuously imparting education in their respective subjects for several years, and their engagements have been renewed from time to time. They claim that despite rendering teaching services in Government Colleges, they have been denied the benefit of seven additional casual leaves as granted to women employees of the State Government.

(ii) It is further case of the petitioners that the General Administration Department has issued a Circular dated 05.07.2023 (Annexure P-2) granting benefit of seven casual leaves to women employees of the State Government in addition to already granted 13 days' casual leave. Relying upon the said circular, the petitioners submitted representations (Annexure/P/4) before the competent authorities seeking conferral of benefit of aforesaid circular. As no decision was taken on their representations, a few petitioners approached this Court by filing W.P. No.13388/2024, which came to be disposed of on 28.05.2024 vide (Annexure-P/5) with a direction to the Commissioner, Higher Education Department to consider and decide their representations by passing a reasoned and speaking order within the stipulated period.

(iii) Since despite aforesaid directions issued by this Court, no decision was taken on the petitioners' representation within the prescribed period, therefore, petitioners filed a contempt petition CONC No.3958/2024 to initiate contempt proceedings. During the pendency of said contempt proceedings, the respondent No.3/Commissioner, Higher Education Department, passed an order dated 22.10.2024 (Annexure-P/6), rejecting the petitioners' claim on the ground that Guest Lecturers are governed by the Circular dated 05.10.2023, under which they are entitled only to 13 days' casual leaves and three optional leaves. Further, since they are not regular Government employees, they are not entitled to the benefit of seven additional casual leaves. In view of the said order, the contempt petition was



closed. Aggrieved by the rejection order dated 22.10.2024 and the applicability of Clause 7.1 of the Circular dated 05.10.2023, the petitioners have preferred this present writ petition.

3. Learned counsel for the petitioners submits that the respondents have acted contrary to the Circular dated 05.07.2023 and the relevant clause of the Circular dated 05.10.2023 is in violation of Article 14 of the Constitution and hence, the same is liable to be declared as *ultra vires* the Constitution. In support of his contentions learned counsel has placed reliance on the decisions in the cases of *Municipal Corporation of Delhi Vs. Female Workers (Muster Roll) and another*, AIR 2000 SC 1274 and *Sunita Danoditya Vs. State of MP and others*, (2018) 1 MPLJ 686.

4. Learned Government Advocate submits that the impugned order has been passed strictly in accordance with the applicable policy and does not warrant interference in exercise of writ jurisdiction. It is further submitted that the petitioner had earlier approached this Court by filing W.P. No.13388/2024 and the said writ petition was disposed of on 28.05.2024 with a direction to consider and decide the petitioner's representation by passing a reasoned and speaking order. Hence, it is prayed that the writ petition be dismissed.

Appreciation & Conclusions

5. After hearing the learned counsel for the parties, we are of the opinion that, in compliance with the directions issued by this Court, the competent authority has duly considered the petitioner's claim and passed the impugned speaking order dated 22.10.2024, which is just and proper. It is to be noted that the petitioners were initially engaged as Guest Lecturers ('*Atithi Vidwan*') and are governed by the policy applicable to guest faculty; hence, the benefit of seven



days' additional Casual Leave contemplated under the Circular dated 05.07.2023 is not available to them. Apart from the above, the impugned orders do not suffer from arbitrariness, illegality, or perversity. Lastly, the petitioner has failed to establish any enforceable legal or statutory right entitling them to claim the relief. In the absence of any provision conferring the benefit of seven days' additional Casual Leave upon Guest Faculty at par with the regular government employees, no writ of *mandamus* can be issued.

6. In the case of *Mani Subrat Jain v. State of Haryana* (1977) 1 SCC 486 the Supreme Court of India gave a landmark ruling, laying down that a person seeking a *Writ of Mandamus* must possess a legal right to enforce performance of a public duty. It was held:-

"It is elementary that to obtain a writ of mandamus, the applicant must have a legal right to the performance of a legal duty by the party against whom the mandamus is sought."

In the matter of Director of Settlements, A.P. v. M.R. Apparao (2002) 4 SCC 638, the Supreme Court also held that *Mandamus* is a discretionary remedy used to enforce a pre-existing legal right or statutory duty. It cannot be issued to create a new legal right or to direct the executive to frame a policy in a particular manner.

7. It is to be noted that Guest Lecturers are engaged on a temporary/contingent basis and governed by distinct terms, disentitling them from claiming benefits meant for regular government employees. In the case of *State of Haryana v. Charanjit Singh* (2006) 9 SCC 321, the Supreme Court held that



persons engaged on a casual, temporary, or daily-wage basis form a distinct class. Equality under Article 14 of the Constitution cannot be invoked in the abstract without examining the nature of recruitment, duties, and terms of engagement. Again, in the case of *State of Rajasthan v. Daya Lal* (2011) 2 SCC 429, the Apex Court explicitly ruled that temporary, *ad-hoc*, or contractual employees do not acquire equal status with regular employees and cannot claim benefits/parities applicable to regular cadre unless specifically conferred by the relevant rules or policies.

8. In view of the above discussion, we do not find any ground to allow the writ petition. Hence, the writ petition is **dismissed**.

9. No order as to cost.

(VIVEK RUSIA)
ACTING CHIEF JUSTICE

(PRADEEP MITTAL)
JUDGE

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