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WP-18026-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT

ON THE 16th OF JULY, 2026WRIT PETITION No. 18026 of 2026*DR DEVENDRA KUMAR SHAKYA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Ms. Nidhi Patankar learned Senior Counsel with Mr. Abhay Jain-
Advocates for the petitioner.

Mr. K.K. Prajapati - Govt. Advocate for the State.

Mr. Rajendra Singh Dhakad - Advocate for the respondents no.4 & 5.
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ORDER

This petition, under Article 226 of the Constitution of India, has
been filed seeking the following relief(s):-

- "a) Issue an appropriate writ, order or direction in the nature of Mandamus, directing the Respondents to appoint the Petitioner as Head of the Department, Ophthalmology, Gajra Raja Medical College, Gwalior, in accordance with the Circular dated 05-08-2023 issued by the Department of Medical Education, Govt. of M.P.
- b) Issue an appropriate writ, order or direction, declaring the inaction /arbitrary action on the part of the Respondents, particularly Respondent No. 5, in not implementing the Circular dated 05-08-2023 in the case of the Petitioner, as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India;
- c) Issue an appropriate writ, order or direction directing the Respondents to follow the policy of seniority-cum-rotation as prescribed in Circular dated 05-08-2023 for the Department of Ophthalmology, GRMC;



- d) Grant any other relief which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the case in the interest of justice;
- e) Award cost of the petition in favour of the Petitioner."

2. Learned counsel for the State submitted that he does not want to file reply in the matter as the contesting party is respondents no.4 & 5.

3. Learned counsel for the petitioner submitted that the petitioner is a Professor in the Department of Ophthalmology at Gajra Raja Medical College, Gwalior, and has been serving the institution for the last about 35 years with sincerity, dedication and professional competence. It is submitted that the petitioner is the senior-most Professor in the Department of Ophthalmology and is due to retire on attaining the age of superannuation in December, 2027.

4. Learned counsel further submitted that in the year 2020, the petitioner was diagnosed with Stage-IV Carcinoma Prostate (Cancer). However, after undergoing treatment and receiving a favourable prognosis, the petitioner has continuously and efficiently discharged his academic, clinical and administrative duties without any interruption. It is submitted that the illness of the petitioner has never affected the discharge of his official duties. It is further submitted that since the diagnosis of cancer in the year 2020, no show-cause notice has ever been issued to the petitioner regarding his work or performance by the competent authority.

5. It is further submitted that the Department of Medical Education issued a circular dated 05.08.2023 directing all Government Medical Colleges in the State to appoint the Head of Department on the basis of seniority with a rotational tenure of two years. As per the said circular, the



senior-most Professor of the concerned department is required to be appointed as the Head of Department. Learned counsel submitted that the petitioner had earlier also been entrusted with the charge of Head of Department from December, 2020 to September, 2023, and during the said period no complaint or show-cause notice was ever issued against him.

6. It is further submitted that pursuant to the circular dated 05.08.2023, the respondents implemented the policy in various departments of Government Medical Colleges across the State, and appointments of Heads of Department were made strictly on the basis of seniority and rotation.

7. Learned counsel further submitted that the petitioner was subsequently transferred to Sheopur vide order dated 22.05.2025. Aggrieved by the said transfer, the petitioner filed W.P. No.19503/2025, wherein interim protection was granted by the Coordinate Bench. Thereafter, the respondents themselves modified the transfer order vide order dated 30.12.2025. Learned counsel for the petitioner further submitted that the petitioner submitted a representation dated 07.01.2026 before the competent authority requesting that he be appointed as the Head of the Department of Ophthalmology in terms of the circular dated 05.08.2023, being the senior-most Professor of the department.

8. Learned counsel further submitted that the Medical Teachers' Association, Madhya Pradesh, also addressed letters dated 08.01.2026 and 29.01.2026 to the respondents recommending the appointment of the petitioner as Head of the Department in accordance with the circular dated 05.08.2023 (Annexure P-7). Since the representation was not decided, the



petitioner filed W.P. No.10613/2026, which was disposed of vide order dated 01.04.2026 with a direction to the respondents to consider the representation in accordance with the circular dated 05.08.2023. It is submitted that thereafter respondent No.5 passed the impugned order dated 29.04.2026 rejecting the petitioner's claim for appointment as Head of the Department. Learned counsel submitted that the representation has been rejected mainly on the ground of the petitioner's medical condition and a disciplinary penalty imposed during the year 2015-2016. It is submitted that both the grounds are wholly extraneous and untenable, as the petitioner has continuously worked as Professor without any interruption. Even after the punishment order dated 26.07.2016, the petitioner was entrusted with the charge of Head of Department from December, 2020 to September, 2023 and discharged the said duties satisfactorily. It is further submitted that during the said tenure no show-cause notice was issued, no departmental enquiry is pending against the petitioner, and no complaint regarding his functioning has ever been made. It is further submitted that the respondent authorities are implementing the Circular dated 05.08.2023 in all other departments by giving the rotational charge of the Head of Department on the basis of seniority. However, in the case of petitioner alone, the respondents have not followed the said Circular and have treated the petitioner differently without any valid reason. Learned counsel further submitted that there are only two Professors in the Department of Ophthalmology and, after completion of the tenure of Dr. P.K. Chhawariya, the petitioner became entitled to be appointed as Head of Department in terms of the circular dated 05.08.2023.



9. *Per contra*, learned counsel for respondents no.4 and 5 submitted that the circular dated 05.08.2023 itself provides that where there are adverse remarks by the Dean or a past disciplinary record, the competent authority may pass over such person and appoint the next eligible senior Professor on rotational basis. It is submitted that the petitioner has a past record of professional misconduct. He was placed under suspension vide order dated 11.06.2015 for alleged negligence in discharge of official duties and, after conclusion of the departmental enquiry, a penalty of withholding one annual increment was imposed upon him vide order dated 26.07.2016.

10. It is further submitted that seniority alone does not confer a vested right to be appointed as Head of Department. The assignment of the charge of Head of Department is purely an administrative arrangement made in the interest of efficient administration. It is also submitted that the petitioner is undergoing treatment for Stage-IV Prostate Cancer and, therefore, may not be able to discharge the higher administrative responsibilities efficiently. Learned counsel further submitted that the petitioner himself relied upon his medical condition while seeking interim protection against his transfer, which indicates that he is not in a position to discharge the additional responsibilities. It is submitted that assessment of the operational fitness of a medical teacher for administrative responsibilities falls within the administrative discretion of the competent authority and is exercised in public interest.

11. Heard learned counsel for the parties and perused the record.

12. From the record, it is evident that the petitioner is serving as



Professor in the Department of Ophthalmology at Gajra Raja Medical College, Gwalior, and has rendered nearly 35 years of service. It is also not in dispute that the petitioner is the senior-most Professor in the Department of Ophthalmology and is due to attain the age of superannuation in December, 2027. The petitioner was diagnosed with Stage-IV Carcinoma Prostate in the year 2020. However, after undergoing the requisite treatment, the petitioner resumed and continued to discharge his academic, clinical and administrative responsibilities. The material placed on record does not indicate that the petitioner's medical condition has adversely affected the discharge of his official duties. It is not the case of the respondents that at any point of time after the diagnosis of the illness, the petitioner was issued any show-cause notice in the discharge of his duties on account of his medical condition.

13. The record further reveals that the Department of Medical Education issued a circular dated 05.08.2023 prescribing that the charge of Head of Department in Government Medical Colleges shall be assigned on the basis of seniority with a rotational tenure of two years. It is also an admitted position that the petitioner had earlier functioned as the Head of the Department of Ophthalmology from December, 2020 to September, 2023. During the said period, no adverse material has been brought on record to indicate that his functioning as Head of Department was unsatisfactory. No departmental enquiry was initiated, no complaint was received and no show-cause notice was issued regarding his performance while discharging the responsibilities of the said office/HOD. Despite the policy dated 05.08.2023



and despite the petitioner being the senior-most Professor in the Department, he was not appointed as Head of the Department.

14. Merely because the petitioner is undergoing treatment for a medical condition cannot be a valid ground to deny him the charge of Head of Department, particularly when the respondents themselves have permitted him to continue as Professor and have not placed any material on record to establish that he is medically unfit to discharge the duties attached to the office. More significantly, the petitioner had already discharged the functions of Head of Department from December, 2020 to September, 2023 after the diagnosis of his illness.

15. This Court also finds that the circular dated 05.08.2023 is being uniformly implemented in respect of other departments by assigning the charge of Head of Department on the basis of seniority and rotation. The respondents have failed to disclose any rational basis for departing from the said policy only in the case of the petitioner.

16. It is not in dispute that the petitioner had earlier discharged the duties of Head of Department from December, 2020 to September, 2023. During the said period, no show-cause notice was issued to him and no disciplinary action was taken regarding his performance as Head of Department. Even at that time, the respondents were fully aware of the punishment order dated 26.07.2016, whereby the penalty of withholding one annual increment without cumulative effect had been imposed upon the petitioner. Despite the said penalty, the respondents themselves considered the petitioner fit and entrusted him with the charge of Head of Department.



The petitioner has been suffering from cancer since the year 2020. Even thereafter, no show-cause notice has ever been issued regarding his work or efficiency. This clearly shows that the petitioner has been continuously discharging his official duties satisfactorily.

17. For ready reference and convenience, the relevant part of circular dated 05.08.2023 reads as under;

"1. प्रथमतः शैक्षणिक चिकित्सालयों में संबंधित विशिष्टता के वरिष्ठतम वरिष्ठ प्राध्यापक / प्राध्यापक को विभागाध्यक्ष नियुक्त किया जावेगा जो एक बार में अधिकतम 2 वर्ष के लिए विभागाध्यक्ष रहेंगे। यह नियुक्ति परिपत्र जारी करने की दिनांक से प्रभावी होगी। वर्तमान में कार्यरत विभागाध्यक्ष नियुक्ति तिथि से 2 वर्ष तक कार्य कर सकेंगे।

2. तत्पश्चात वरिष्ठता के आधार पर क्रमानुसार वरिष्ठ प्राध्यापक / प्राध्यापक को विभागाध्यक्ष नियुक्त किया जावेगा, जिसकी अवधि 2 वर्ष की होगी। विभाग में एक ही वरिष्ठ प्राध्यापक होने की स्थिति में दूसरा वरिष्ठ प्राध्यापक उपलब्ध होने तक कार्यालय में वृद्धि की जावेगी।

3. यदि वरिष्ठ प्राध्यापक / प्राध्यापक द्वारा विभागाध्यक्ष बनने में लिखित रूप से अनिच्छा प्रकट की जाती है अथवा उसने विरुद्ध विभागीय जांच / न्यायालय में अपराधिक प्रकरण दर्ज है अथवा अधिष्ठाता द्वारा प्रतिकूल टिप्पणी की गई है अथवा राज्य सरकार द्वारा आरोप पत्रादि जारी किये गये हैं तो संबंधित विभाग में कार्यरत अगले वरिष्ठ प्राध्यापक / प्राध्यापक को विभागाध्यक्ष नियुक्त किया जायेगा।

4. विभागाध्यक्ष के नियुक्ति आदेश क्रमानुसार (On Rotation) संबंधित अधिष्ठाता एवं CEO द्वारा जारी किये जायेंगे।

5. संबंधित शैक्षणिक चिकित्सालयों में विभागाध्यक्ष के अन्य महाविद्यालय में स्थानान्तरण, त्याग-पत्र, सेवानिवृत्त अथवा अन्य की स्थिति में स्वतः ही वरिष्ठता में अगले वरिष्ठ प्राध्यापक / प्राध्यापक को विभागाध्यक्ष नियुक्त किया जा सकेगा।

6. पुनः कम (Rotation) प्रारंभ होने पर पूर्व में विभागाध्यक्ष के रूप में कार्य कर चुके वरिष्ठ प्राध्यापक / प्राध्यापक को वरिष्ठता के आधार पर विभागाध्यक्ष नियुक्त किया जावेगा जब तब कि वरिष्ठता कम में ऐसा वरिष्ठ प्राध्यापक / प्राध्यापक जिसकी विभागाध्यक्ष के



रूप में 2 वर्ष की अवधि पूर्ण नहीं हुई है, उपलब्ध नहीं होता है।

7. संबंधित अधिष्ठाता एवं CEO उनके संबंध शैक्षणिक चिकित्सालयों के सभी विभागों को उक्त प्रक्रिया के तहत विभागाध्यक्ष की नियुक्ति किया जाना सुनिश्चित करेंगे।

8. राष्ट्रिय आर्युविज्ञान आयोग की अधिसूचना दिनांक 14.02.2022 "Teachers Eligibility Qualification in Medical Institution regulation, 2022 के अनुसार Non Medical Person को किसी चिकित्सा संस्थान में अधिष्ठाता / निदेशक / चिकित्सा अधीक्षक अथवा विभागाध्यक्ष नियुक्त नहीं किया जा सकता है।

9. उपलब्ध Medical Person में से ही वरिष्ठता अनुसार विभागाध्यक्ष के पद पर नियुक्त किया जा सकेगा। वरिष्ठता कम में Medical Person की अनुपलब्धता की दशा में पुनः वही कम (Cycle of Rotation) दोहराया जाएगा। परन्तु विभागाध्यक्ष का प्राध्यापक होना भी आवश्यक है (NMC अधिसूचना दिनांक 28.10.2020 Schedule II B.2 के अनुसार) उक्त दिशा निर्देश तत्काल प्रभाव से लागू किया जाता है।"

18. The circular dated 05.08.2023 does not prohibit appointment of a senior-most Professor as Head of Department merely because he is suffering from a serious medical ailment. The respondents have also not shown that there has been any adverse change in the petitioner's service record after he earlier discharged the duties of Head of Department. Once the respondents themselves had earlier entrusted the petitioner with the charge of Head of Department despite the punishment order dated 26.07.2016 and despite his medical condition, the same grounds could not have been relied upon subsequently to deny him the benefit under the circular dated 05.08.2023.

19. In the case at hand, despite being the senior-most Professor in the Department of Ophthalmology, the petitioner was not appointed as the Head of Department. Instead, one Dr. P.K. Chhawariya, who is junior to the petitioner and was earlier his student, was appointed as the Head of



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Department vide order dated 23.08.2023 for a tenure of two years.

Considering the aforesaid, the impugned order dated 29.04.2026 rejecting the petitioner's representation is hereby quashed.

20. Since, it is not disputed that the petitioner is the senior-most Professor in the Department of Ophthalmology and it is also not the case of the respondents that Dr. P.K. Chhawariya is more suitable than the petitioner, the respondents are directed to appoint the petitioner as the Head of the Department, Ophthalmology, Gajra Raja Medical College, Gwalior, with immediate effect, within a period of seven days from the date of receipt of a certified copy of this order.

21. With the aforesaid, the present petition stands disposed of.

(ANAND SINGH BAHRAWAT)
JUDGE

vpn/-