
(2011) 08 SHI CK 0046
In the High Court Of Himachal Pradesh
Case No : CWP No. 561 of 2011

Ajay Kaistha

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 01-08-2011

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2011) 08 SHI CK 0046

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Deepak Gupta, J.—By means of this petition, the Petitioner has challenged the orders whereby he has been declared surplus and ordered to be attached in the Education Department.

2. The undisputed facts of the case are that the H.P. Agro Industries Corporation is a Government Corporation. It is also not disputed that it is running in heavy losses. Therefore, the Corporation decided to declare some staff as surplus and in the interest of the surplus staff, the State Government decided 1 to absorb them in different departments. The grievance of the Petitioner is that the persons junior to him have been retained in the Agro Industries Corporation, whereas the Petitioner, who is working as Assistant Store Keeper, has been sent to the Education Department on the lower post of Clerk. The Petitioner has taken a specific plea that the principle of last come first go must be followed. He, in his petition, has mentioned that a number of Assistant Store Keepers, namely S/Shri Purvanand, Arun Sharma, Deep Chand, Rajinder Chaudhary and Amar Thakur, have been retained in the Corporation.

3. The stand of Respondent No. 3-Corporation is that the Petitioner has been declared surplus due to closure of the Branch Office at Dharamshala and that the other employees are working in different branches which have still not been

closed.

4. When an employee has to be retrenched or declared surplus because of the closing down of a Corporation, then the Corporation has to follow the policy of last come first go and cannot follow the pick and choose policy of declaring those persons surplus who were working in a branch which is closed down. This can lead to unduly harsh results. A person may have been working as a peon in a branch for last 20 years and it is decided to close down the branch in which he was working, whereas another employee who is in employment only for one year may be working in a branch which is not to be closed down, then this policy being followed by the Corporation is totally inequitable and against the principles of Article 14 of the Constitution of India. The Corporation must follow the policy of last come first go on the basis of length of service rendered in the corporation.

5. Therefore, the writ petition is allowed and the orders declaring the Petitioner surplus and sending him to the Education Department are set aside. It is, however, clarified that the corRespondent Corporation can declare their employees surplus by following principle of last come first go as mentioned hereinabove.