

(2010) 12 SHI CK 0057
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 6375 of 2008

Amar Chand

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 22-12-2010

Acts Referred:

Citation : (2010) 12 SHI CK 0057

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Judgement

V.K. Sharma, J.—The petition has been filed for grant of the following substantive reliefs vide paras 7(i) to (iii):

(i) To quash and set-aside the impugned order dated Annexure "PA" dated 27.9.1999;

(ii) To appoint the applicant as kanungo Candidate w.e.f. 30.5.1996 and to promote him as a Kanungo when Patwaris junior to him were appointed as Kanungo Candidates and promoted as such or subsequently thereafter but before 26.2.1990 when other juniors were promoted as Kanungos and the applicant was illegally and wrongly ignored for promotion;

(iii) to grant attendant service benefits flowing out of promotion as "Kanungo" from 1986 or any other subsequent date before 26.2.1990.

2. In reply on behalf of Respondents No. 1 to 3 the following stand has been taken by way of preliminary submissions 1 to 3:

1. As per the provisions of Kanungo Service Rules, 1951 applicable at that time a DPC to select the Kanungo candidates were held on 20.5.1986. According to the provisions of Para 2.2 to drawing up and keeping a panel of accepted Kanungo candidates, 50% quota of the total cadre strength was required to be kept for making appointment against the vacancies, which apart from promotee patwaris includes 33% Direct Kanungo Candidates. On this very date the cadre strength of

the Kanungos was 69 and thus out of total 34 Kanungo candidates 11 Direct Kanungo candidates were selected through P.P.S.C. Shimla and the remaining 23 were selected amongst the patwaris in the ratio of 2:1 (Two from Matric and one from Middle) according to para 2.3 by giving a proper representation to the candidates of S.C. And S.T. Categories respectively. Vide para 2.3. *ibid* there was also a provision to give preference to those candidates who were graduate/post graduate. Category wise chart showing the particulars of above 23 kanungo candidates so selected in the DPC held on 20.5.1986 is attached as Annexure R-1. Applicant Shri Amar Chand is a matric pass patwari of general category figured at Sr. No. 119 of seniority list Annexure R-2 and R-2/T. As is evident from the chart Annexure R-1, no Matric pass postwar from general category has been selected as kanungo candidate who is junior to the⁴ applicant.

2. As against the claim put forth by the applicant it is submitted that out of Respondents 4 to 8, Respondent No. 4 Sh. Prem Sukh a matric pass patwari is an Ex-serviceman and he has been given a benefit of seniority as Ex-Serviceman as such he is senior to the applicant. Respondent No. 5 and 8 Sh. Gopal Singh and Shri Relu Ram belong to S.T. And S.C. Category respectively. Therefore, they have been selected against the quota reserved for their category. Similarly Respondent No. 6 and 7 Sh. Shayam Singh and Shri Hem Singh are senior amongst the graduate patwaris and as such were selected in a preference as per provision of Rule 2.3. *ibid* applicable at that time.

3. Subsequently on the exhaustion of the above panel of kanungo candidates a DPC to fill up the vacancies was held on 4.5.1989. The chart showing the categorywise detail of 6 kanungo candidates so selected in this DPC is as Annexure R-3. As is evident from Annexure R-3, out of these 6 patwaris 3 matric pass patwaris of general category namely Malkiyat Singh, Badri Ram and Devi Singh who figured at Sr. No. 58, 61 and 115 of the seniority list (Annexure R-2) were selected/promoted as Kananga in the ratio of 2:1 whereas the applicant who is also a matric pass patwari of General category figured at Sr. No. 119 in this seniority list. Therefore again the applicant being a far junior metric pass postwar of general category could not be selected/promoted to the post of Kananga. The applicant however, when became eligible for acceptance as Kananga candidate on the basis of seniority, he was accepted as Kananga candidate in the DPC held on 25.2.1990 and was further promoted as Kananga on 26.2.1990.

3. In view of the above reply in case the Petitioner still has any surviving grievance with regard to factual or legal aspects of the matter, he shall be free to make a representation to Respondent No. 2 along with a copy of this judgment within one month from today and the said Respondent shall consider and take a final decision in the matter within the next two months after affording an opportunity of being heard to the Petitioner, if so desired.

4. The petition stands disposed of, so also pending CMP(s), if any.