
(2020) 07 SHI CK 0293
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 808 Of 2019

Amrit Lal

APPELLANT

Vs

State Of Himachal Pradesh And Ors

RESPONDENT

Date of Decision : 09-07-2020

Acts Referred:

Citation : (2020) 07 SHI CK 0293

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Megha Gautam, Ashok Sharma, Arvind Sharma, Kunal Thakur

Final Decision : Disposed Of

Judgement

Sandeep Sharma, J

1. The petitioner, who was engaged as Part Time Water Carrier at Government Ayurveda Primary Health Center, Saur, District Solan, H.P., w.e.f. 17.9.1997 (Annexure A-1), was subsequently regularized vide composite order dated 19.10.2005 (Annexure A-2) alongwith other 167 persons in terms of regularization policy framed by the State of Himachal Pradesh. Pursuant to aforesaid regularization, petitioner furnished his joining report on 27.10.2005 in the office of AMO Govt. Ayurveda Primary Health Center, Saur (Annexure A-4). However, subsequently vide communication dated 16.3.2006, applicant was reverted back to the post of Part Time Water Carrier (Class-IV) on the ground that since he was appointed as Part Time Water Carrier in the year 1997, he could not have been regularized alongwith other 167 persons, who were appointed Part Time Water Carrier in the year, 1995. Being aggrieved with aforesaid order of reversion issued by the respondents, petitioner approached the Tribunal by way of Original Application No. 1012 of 2006, praying therein for following main relief:-

"That in view of the aforesaid facts and circumstances, the respondents may kindly be directed to allow the applicant to discharge his duties on regular basis

at Primary Health Center (Ayurveda), Saur, Sub-Tehsil Ramsher, Tehsil Nalagarh, District Solan, H.P."

2. On account of abolishment of the Erstwhile HP State Administrative Tribunal, present petition has now been transferred to this Court for adjudication.

3. Having heard learned counsel for the parties and perused material available on record, this Court finds that petitioner was initially engaged as Part Time Water Carrier vide order dated 17.9.1997 (Annexure A-1), but respondents while issuing office order No. Ay-H(B)(2)-5/95-11 15160-15360 dated 19.10.2005, whereby services of the petitioner along with other 167 persons were regularized, wrongly considered the date of appointment of the petitioner to be w.e.f. 1979, whereas petitioner was initially appointed on 17.9.1997. It has been categorically stated in the reply filed by the respondents that inadvertently, date of the appointment of the petitioner was written w.e.f. 1979, whereas he was appointed in the year 1997 and as such, could not have been regularized in the year, 2005 because by that time, he had not completed 10 years of the service.

4. Otherwise also, careful perusal of Annexure A-6, whereby service of the petitioner was ordered to be reverted back to the post of Part Time Water Carrier reveals that persons other than petitioner, who were regularized vide communication dated 19.10.2005 (Annexure A-2)) were appointed as Part Time Water Carrier in the year 1995 and at the time of passing of aforesaid order, they had already completed ten years.

5. Having carefully perused reply filed by the respondents as well as documents annexed therewith Ms. Megha Gautam, learned counsel for the petitioner was unable to dispute factum with regard to initial appointment of the petitioner in the year 1997 and as such, states that though relief prayed for in the instant petition for regularizing the services of the petitioner w.e.f. 1997, cannot be granted but since petitioner has already completed more than 10 years from the date of his initial appointment, necessary direction be issued to the respondents to regularize the services of the petitioner from the date of his having completed ten years.

6. Mr. Arvind Sharma, learned Additional Advocate General, having heard aforesaid fair statement made by the learned counsel for the petitioner contends that services of the petitioner, if not already regularized can be ordered to be regularized in the facts and circumstances of the case.

7. Consequently, in view of the above, present petition is disposed of with direction to the respondents to regularize the services of the petitioner as Part Time Water Carrier forthwith in terms of policy of regularization prevailing at that relevant time. Needless to say, petitioner would be paid all consequential benefits on account of his regularization strictly as per the policy and rules. Pending applications, if any, also stand disposed of.