
(2020) 09 SHI CK 0050

In the High Court Of Himachal Pradesh

Case No : Execution Petition (T) No. 29 Of 2019

Anila Katoch

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 04-09-2020

Acts Referred:

Citation : (2020) 09 SHI CK 0050

Hon'ble Judges : Tarlok Singh Chauhan, J

Bench : Single Bench

Advocate : Rajesh Verma, Ashok Sharma, Vinod Thakur, Bhupinder Thakur, Svaneel Jaswal

Final Decision : Disposed Of

Judgement

Tarlok Singh Chauhan, J

1. The petitioner was having disability and filed O.A. No. 2362 of 2019 to extend her retirement age from 58 to 60 years on the basis of the Office Memorandum dated 29.03.2013 issued by the Government of Himachal Pradesh. In support of her contention, reliance was placed on the judgment rendered by this Court in CWP No. 1577 of 2018 titled "State of H.P. and others vs. Krishan Chand". The Original Application came up for consideration before the erstwhile Tribunal and the same was disposed of vide order dated 14.06.2019 in the following terms:

"7. In view of the above, the original application is disposed of in terms of the aforementioned order/judgment with a direction to the respondents/competent authority that subject to the above verification and on finding the applicant to be similarly situate as above, benefit of the said order/judgment, if the same have attained finality/implemented, shall be extended to her alongwith consequential benefits, if any, as per law, within three months from the date of production of certified copy of this order alongwith copy of the aforesaid representation before the said authority by the applicant."

2. It is not in dispute that the judgment of the learned Tribunal has attained

finality and, therefore, the respondents have no option but to comply with the same. It is only the defence taken by the respondents at one point of time that the judgment relied upon in Krishan Chand's case was pending adjudication before the Hon'ble Supreme Court. This contention was not available to the respondents as the SLP filed in Krishan Chand's case was disposed of even prior to the filing of the instant petition vide order dated 13.09.2019, whereas, this execution petition came up to be filed on 24.09.2019.

3. As a last ditch effort, the respondents would argue that now the Office Memorandum dated 29.03.2013 stands withdrawn vide Office Memorandum dated 04.11.2019, therefore, the petitioner is not entitled to any benefit whatsoever.

4. Even this contention of the respondents is not sustainable for the simple reason that the judgment passed by the learned Tribunal in the case of the petitioner has attained finality and, therefore, is required to be implemented in its letter and spirit upto 04.11.2019 when the earlier Office Memorandum dated 29.03.2013 was ordered to be withdrawn. Right of the petitioner, as a matter of fact, flows out of the Office Memorandum issued by the respondents themselves on 29.03.2013 and is only buttressed by the judgment in her favour. Therefore, in case the petitioner has completed 60 years prior to Office Memorandum dated 04.11.2019 whereby the earlier Office Memorandum dated 29.03.2013 has been withdrawn, then obviously, the petitioner cannot be denied and would rather be deemed to be in service upto the age of 60 years or at least upto 04.11.2019, whichever is earlier.

5. Consequently, I find merit in this execution petition and the same is accordingly allowed and the petitioner shall be deemed to be in service upto the age of 60 years on the basis of the Office Memorandum or upto 04.11.2019, whichever is earlier and would thus be entitled to all consequential benefits including pay etc. for the said period.

6. The execution petition is disposed of accordingly, leaving the parties to bear their own costs.