
(2010) 09 SHI CK 0052
In the High Court Of Himachal Pradesh
Case No : C.W.P. (T) No. 4882 of 2008

Arun Kumar

APPELLANT

Vs

H.P. State S.C. and S.T. Dev. Corp. and Another

RESPONDENT

Date of Decision : 15-09-2010

Acts Referred:

Citation : (2010) 09 SHI CK 0052

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Deepak Gupta, J.—The petitioner, by means of this writ petition, has challenged the order dated 16.1.1998, Annexure A-7, whereby order dated 17.8.1996 promoting the petitioner as Senior Auditor w.e.f. 18.4.1995 on regular basis has been withdrawn and his promotion has been now made on ad hoc basis.

2. The main grievance of the petitioner is that the order dated 16.1.1998 visits the petitioner with civil consequences and has been passed in violation of the rules of natural justice inasmuch as no notice was given to the petitioner before passing such order.

3. The respondents in their reply have stated that they were constrained to pass this order since representations were made by persons seniors to the petitioner that they had not been considered for promotion and since there were no recruitment and promotion rules, existing at the relevant time, the petitioner could not have been promoted. Lastly, it is submitted that one Sh. S.K. Goel had lien on the post of Senior Auditor and as such the petitioner could not be promoted against the said post.

4. After going through the rival contentions of the parties, I am of the opinion that the impugned order has to be set-aside on the short ground that it visits the petitioner with civil consequences and has been passed without issuance of any notice to him. It would be pertinent to mention that on 28th February, 1998 the

erstwhile Tribunal had directed that no person should be regularized as Senior Auditor/Assistant Manager till further orders. These interim orders are continuing and as such the petitioner is working against the said post.

5. In view of the above discussion, the petition is allowed. The impugned order dated 16.1.1998 is set-aside. However, the respondents are at liberty to issue notice to the petitioner and after considering the case of the petitioner and all other affected parties the respondents may pass a reasoned order on the notice so issued. Such notice must be issued in four weeks from today. Reply should be filed positively within four weeks thereafter and no extension of time will be granted for filing the reply. The respondents shall ensure that action on the notice be taken latest by 31st December, 2010. No costs.