
(2013) 11 SHI CK 0026
In the High Court Of Himachal Pradesh
Case No : CWP No. 10747 of 2012-E

Ashwani Kumar

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 22-11-2013

Acts Referred:

Citation : (2013) 11 SHI CK 0026

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Advocate : Sanjeev Bhushan, for the Appellant; Meenakshi Sharma, Addl. A.G., Mr. Neeraj K. Sharma, Dy. A.G. for Respondent No. 1 and 2 and Mr. Ramakant Sharma, Advocate, for the Respondent

Judgement

Rajiv Sharma, J.—Petitioner was appointed as Driver on contract basis on 1.1.2000. His contract was renewed from time to time. The fact of the matter is that petitioner has been continuously working for the last 13 years with respondent No. 3, but till date he has not been regularized. Respondent No. 2 has sought information from all the Executive Officers/Secretaries, Municipal Councils/Nagar Panchayats in Himachal Pradesh on 22.8.2008 regarding daily waged/contract workers as on 20.8.2008. The requisite information was supplied by respondent No. 3 on 29.8.2008. Name of the petitioner was also included in the information supplied. Respondent No. 2 again sought information towards regularization of daily wagers/contractual employees on 18.2.2010 from all the Executive Officers/Secretaries, Municipal Councils/Nagar Panchayats in Himachal Pradesh. This information was supplied on 24.2.2010. Respondent No. 2 again sought information from the Executive Officers/Secretaries, Municipal Councils/Nagar Panchayats on 11.5.2012 for regularization of services of daily wagers/contract appointees, who have completed 8 years of service and could not be regularized due to non-availability of vacant posts/non-fulfillment of requisite educational qualification. Nagar Panchayats were directed to specifically give details of daily waged/contract employees whose cases were under consideration with the Government for creation of additional posts/relaxation in educational

qualification. Nagar Panchayats were also directed to intimate whether the additional liability on account of regularization of daily waged/contract employees will be met by the Panchayats. Secretary, Nagar Panchayat, Mehatpur sent information to respondent No. 2 on 1.6.2012 undertaking that Nagar Panchayat, Mehatpur was able to meet the additional liability/salary etc. and there was no other liability of street lighting bills etc. pending against the Nagar Panchayat. Once the information dated 1.6.2012 has been supplied to respondent No. 2 by the Nagar Panchayat, it was incumbent upon respondent No. 2 to take steps towards regularization of the petitioner, who has put in 13 years uninterrupted service. Respondent No. 3-Nagar Panchayat has supported the case of petitioner. However, case of respondents No. 1 and 2 is that petitioner could not be regularized due to non-availability of post. Nagar Panchayat has undertaken, as noticed above, to meet the additional liability in the eventuality of the petitioner and similarly situate persons being regularized. According to the policies framed by the State Government from time to time, the workmen who have completed 8 years of service are bound to be regularized. Non-regularization of petitioner will definitely amount to unfair labour practice. Respondent-State is a welfare State and should have been alive to its responsibility for taking steps for regularization of workman who has completed more than 8 years of service.

2. Accordingly, in view of analysis and discussions made hereinabove, the petition is allowed. Respondent No. 2 is directed to regularize the services of the petitioners as Driver, after creating post, immediately after the completion of eight years by the petitioner with all the consequential benefits. Pending application(s), if any, also stands disposed of. No costs.