

(2010) 07 SHI CK 0084
In the High Court Of Himachal Pradesh

Bhupinder Kumar Sharma and Others	Vs	APPELLANT
State of H.P. and Others		RESPONDENT

Date of Decision : 23-07-2010

Acts Referred:

Citation : (2010) 07 SHI CK 0084

Hon'ble Judges : Kurian Joseph, C.J.;Rajiv Sharma, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The petitioners are aggrieved since they are not granted the seniority w.e.f. 1.4.1996. They have been working as daily waged clerks and it is not in dispute that they had completed the required 10 years of service with 240 days in each year prior to 1.4.1996. It is also seen that the petitioners had been granted their seniority w.e.f. 1.1.1996. But, it appears that certain directly recruited employees represented against the grant of seniority, as above, to the respondents. They were recruited in the year 1997 and 1998. According to them, the actual date of regularization is 28.4.1998 and therefore, the petitioners cannot be granted the seniority from retrospective date.

2. Learned Senior Addl. Advocate General, referring to the guidelines dated 11th December, 1997, submits that the seniority can be considered only w.e.f. the date of regularization. The policy guidelines have been produced as Annexure P-6, alongwith the rejoinder. Paragraph (ix) of the guidelines reads as follows:

The Seniority of the "Daily Waged/Contingent Paid Workers" as are regularized under this policy vis-?-vis employees appointed on regular basis shall be determined on the date of issue of these policy instructions. The inter-se-seniority of such "Daily Waged/Contingent Paid Workers" shall be determined in accordance with the date of joining the post on daily waged/contingent paid basis. If the date of joining the post(s), on daily wages/contingent basis by such Daily Waged/Contingent Paid Workers was the same, then the elder employees shall rank senior to an employee younger in age. If the date of joining of the direct recruit and date of regularization of Daily Waged/Contingent Paid Worker is

the same the direct recruit shall rank senior.

3. As per the said policy, the inter-se seniority of daily waged workers vis-a-vis regularly recruited should be determined on the date of issue of the policy instruction. The date of issue of the instruction is 11.12.1997. But, it is seen that the same is in continuation of another policy instruction dated 11th July, 1995. It is the case of the petitioners that they are entitled to retrospective regularization from the date they completed the required 10 years of service with 240 days in a year. If that issue is addressed and a decision is rendered in that regard, then alone the question raised in the writ petition can be given a quietus. Therefore, this writ petition is disposed of directing the second respondent to consider whether the petitioners were entitled to retrospective regularization w.e.f. 1.4.1996, when they claim to have completed required 240 days for a period of ten years. Order in that regard shall be passed within a period of three months from the date of production of copy of this judgment along with copy of the writ petition before the second respondent by the petitioners. Depending upon the outcome of the action thus taken by the second respondent, the seniority, if required, shall be re-worked.

4. With these observations, the Writ Petition is disposed of, so also the pending application(s), if any.

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