
(2010) 10 SHI CK 0248
In the High Court Of Himachal Pradesh
Case No : C.W.P. (T) No. 12386 of 2008

B.R. Thakur

APPELLANT

Vs

State of H.P. and Another

RESPONDENT

Date of Decision : 21-10-2010

Acts Referred:

Citation : (2010) 10 SHI CK 0248

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

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The writ petition is filed with the following prayers:

(i) That the impugned Annexure A-4, dated 30.12.2003 and Annexure A-8, dated 2.7.2004 may be quashed and set aside.

(ii) That the Respondents may be directed to fix the pay of the applicant at Rs. 12,750/- in the pay scale of Rs. 9200-13900 w.e.f. 6.6.20 with all consequential benefits including increments or alternatively the Respondents may be directed to treat the pay scale of Rs. 9200-13900 as personal pay scale of the applicant.

2. In the preliminary submission of the reply, it is stated as follows:

This O.A. is not maintainable, because the Government had decided to close the T.V. Factory Chabaghat (Solan) a unit of H.P. State Electronic Development Corporation and in order to save the employees from being retrenched, the Finance Department issued instructions for absorption of surplus staff in various departments, Boards and Corporations. On absorption only pay of such employees was to be protected not the pay scale. Accordingly, Shri B.R. Thakur, Marketing Manager of T.V. Factory, Chambaghat was appointed/absorbed in the industries department as Manager, DIC in the pay scale of Rs. 7000-10980. Moreover, applicant had accepted the terms and condition for appointment/absorption as offered to him vide this Department Notification No. Udyog(Kha) 1-1/89(Estt.) dated 23rd May, 2000 and joined the Industries Department on

6.6.2000. The applicant was working in the T.V. Factory, Chambaghat(Solan) a unit of the H.P. State Electronic Development Corporation as Marketing Manager in the pay scale of Rs. 9200-13900 and was drawing basic pay of Rs. 12750/- at the time of appointment/absorption in the Industries Department as Manager, DIC. Keeping in view the hardship being faced by applicant, his pay was fixed at the maximum of the pay scale of Rs. 7000-10980 and the pay beyond the maximum of the pay scale of the post was treated as P.P. which would be absorbed in future increments. His pay was rightly fixed at Rs. 10980 plus Rs. 1770/- as P.P. as on 6.6.2000. Thus the basic pay of applicant has not been reduced at the time of appointment/absorption as Manager, DIC, but actually his basic pay had been protected which he was drawing in his parent Corporation. Hence the plea made by the applicant is not correct.

3. According to the Petitioner, even the pay that the Petitioner was getting at the time of absorption is not protected. In case there is factual mistake in that regard, it will be open for the Petitioner to file an appropriate representation before the first Respondent, in which case the matter will be duly considered by the first Respondent with notice to the Petitioner and appropriate action in accordance with law will be taken within another four months. We make it clear that the Petitioner will not be entitled to stake his claim for protection of pay scale, but to pay drawn at the time of absorption. We also make it clear that the grievance of the Petitioner that he has been stagnating without increment(s) after absorption till retirement, will be looked into by the first Respondent and appropriate orders in that regard will also be passed on the said representation and in the process, decision of Supreme Court reported in K. Gopinathan Vs. Union of India (UOI), will be considered.

The writ petition is disposed of, so also the pending application(s), if any.