
(2009) 08 SHI CK 0031
In the High Court Of Himachal Pradesh

Chinta Mani Vyas

APPELLANT

Vs

Himachal Pradesh State Electricity Board and Another

RESPONDENT

Date of Decision : 04-08-2009

Acts Referred:

Citation : (2009) 08 SHI CK 0031

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—Brief facts necessary for the adjudication of this petition culled out from the pleadings of the parties are that respondent No. 2 ranked above the petitioner in the inter-se seniority of the Officers/Superintendents in the Subordinate Accounts Service (SAS) cadre of the respondent-Board issued vide Annexure A-6 dated 29.5.1974. The petitioner and similarly situate persons made representations to the Board for correction of the Whether the reporters of Local Papers may be allowed to see the judgment? No. seniority list. The same were rejected by the competent authority on 5.5.1976. The copy of the decision was also endorsed to the petitioner on 22.5.1976. It is averred in the petition that the petitioner made several representations for the correction of the seniority list circulated vide Annexure A-6 on 27.5.1976, 12.6.1976, 30.9.1976, 1.10.1978, 5.2.1981, 7.5.1985, 30.11.1985, 30.6.1986 and 21.3.1988. The Board has denied the receipt of these representations. Respondent No. 2 was promoted to the post of Chief Accounts Officer in the year 1992. The petitioner made representation to the State Government as well as to the respondent-Board assailing promotion of respondent No. 2. The State Government vide letter dated 21.6.1993 directed the respondent-Board to look into the representation made by the petitioner primarily on three counts i.e. wrong fixation of seniority, pay fixation and denial of consequential benefits. The subsequent developments were also brought to the notice of the State Government vide communication dated 31.3.1994 (Annexure RA-5) by the Board. According to the respondents,

the State Government after the receipt of this communication dated 31.3.1994 had not issued any directions to the Board. The petitioner has made representations for assigning him correct seniority on 23.10.1993, 9.5.1994, 20.3.1995 16.4.1996 and 26.7.1996 after the issuance of letter dated 21.6.1993. The petitioner has retired on 31.8.1995.

2. The Court is of the considered opinion that the petitioner could not rake up the stale claim of seniority which stood assigned to respondent No. 2 on 29.5.1974 on the basis of Annexure A-17 dated 21.6.1993. The petitioner has not mentioned that he had made representation against the seniority list dated 29.5.1974, which was rejected on 5.5.1976. The copy of the decision was also endorsed to the petitioner on 22.5.1976. It is settled law by now that the seniority cannot be unsettled after a lapse of considerable time. The present petition has been filed by the petitioner after his retirement. In case he was aggrieved by the issuance of Annexure A-6 dated 29.5.1974, he should have filed the petition within a period of six months or at least one year. The averment made by the petitioner that the representations, as noticed above, were made for assigning him correct seniority, have been denied by the respondent-Board. It has come in the reply that after the issuance of Annexure A-6 numbers of seniority lists have been issued of the post of Assistant Accounts Officers, Accounts Officers, Senior Accounts Officers and Deputy Financial Advisor between 1976 to 1991. It was necessary for the petitioner to assail these seniority lists. In fact, in the present case, even the petitioner has not assailed order dated 5.5.1976 whereby the representation made by him was rejected. He has also not assailed Annexure A-6 dated 29.5.1974 in this petition. It was not necessary for the Board to consider the stale claim of the petitioner merely on the basis of Annexure A-17 dated 21.6.1993.

3. The petitioner has sought special pay of Rs. 500/- while working as Chief Auditor. Mr. Shashi Shirshoo, Advocate appearing on behalf of the respondents has argued that the post of Chief Auditor was never sanctioned in the Board. Neither any Departmental Promotion Committee was ever constituted by the Board nor any rules were followed while promoting the petitioner to the post of Senior Auditor. The special pay of Rs. 500/- was allowed only for the category of Chief Accounts Officer. The Board had sought clarification from the Punjab State Electricity Board. The Punjab State Electricity Board informed the respondent-Board on 16.9.1991 vide Annexure RA-6 that special pay has been allowed only to senior most Head of Department/Officers on Accounts side. The petitioner had made various representations seeking special pay of Rs. 500/-. However, the claim of the petitioner has rightly been rejected after receiving the information from the Punjab State Electricity Board.

4. The petitioner has also sought senior scale of Rs. 5900-7100. The scale of Rs. 5900-7100 was granted to the senior-most Head of Department/Officers on accounts side by the Punjab State Electricity Board. The petitioner was not the senior-most Officer on accounts side. In these circumstances, he was not entitled

to senior scale of Rs. 5900-7100.

5. The petitioner has further sought confirmation before respondent No. 2. Respondent No. 2 was confirmed on 8.5.1991. The petitioner had made representations for confirming him before respondent No. 2 on 11.11.1991. The stand of the Board is that the petitioner could not be confirmed due to pendency of vigilance cases against him. He was exonerated in the month of January, 1995. However, the State Government on 2.8.1994 had changed the instructions regarding confirmation of the employees. According to new instructions, the confirmation is to be done only once in the entire career. In these circumstances, the decision of the Board not to confirm the petitioner on the basis of the instructions issued on 2.8.1994 cannot be faulted with.

6. Consequently, there is no merit in the petition and the same is dismissed. No costs.