
(2011) 06 SHI CK 0211

In the High Court Of Himachal Pradesh

Case No : COPC (T) No. 250 of 2008 and CWP (T) No's. 9313 and 9941 of 2008

C.R. Negi

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 27-06-2011

Acts Referred:

Citation : (2011) 06 SHI CK 0211

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.

CWP(T) No. 9313 of 2008 (O.A. No. 680 of 2003):

1. Petitioner was appointed as Junior Scale Stenographer on 30.9.1974. He was promoted to the post of Senior Scale Stenographer on 28.10.1978. He was thereafter promoted to the post of Personal Assistant on 11.11.1980 and subsequently to the post of Private Secretary on 9.7.1986. He was then promoted as Senior Private Secretary on 8.9.1995 and thereafter promoted to the post of Special Private Secretary on 11.12.1997. The Respondent-State has issued the seniority list of Private Secretaries vide Annexure P-1, dated 10th September, 1997 as it stood on 27.5.1996. The Petitioner figured at Sr. No. 7 of the seniority list and the private Respondents were ranking below him. Thereafter, tentative seniority list of Special Private Secretaries as it stood on 1.11.2002 was issued vide Annexure P-5, dated 30.11.2002. In this seniority list, the name of the Petitioner was depressed. In other words, the private Respondents were brought above the Petitioner. Petitioner made a representation vide Annexure P-6 against the tentative seniority list on 9.12.2002. However, the Respondent-State without deciding the representation made by the Petitioner issued the final seniority list of Special Private Secretaries vide Annexure P-10, dated 26.3.2003 whereby the same position as it existed in the tentative

seniority list, Ex.P-5, dated 30.11.2002, was retained.

2. Mr. Rakesh Dhaulta, learned Counsel for the Petitioner has drawn the attention of the Court to the order passed in M.A. No. 803 of 2003 in O.A. No. 301 of 2003 whereby the Respondents were directed to decide the representation made by the Petitioner against the tentative seniority list. It has come in the reply-affidavit that the representation made by Petitioner was decided, but the copy of the same was not supplied to him. The Court is of the considered view that once the Petitioner had made a representation against the tentative seniority list, the same was required to be decided before the decision was taken to finalise the seniority list. The action of Respondent-State of deciding the representation made by the Petitioner after finalizing the seniority list, was arbitrary and unreasonable. The purpose of filing the representation against the tentative seniority list was to enable the Petitioner to project his case that the seniority already assigned to him on 10.9.1997, as it stood on 27.5.1996, was correct. Now the decision has been taken, which was not even conveyed to the Petitioner to his detriment, that too, after finalizing the seniority list.

3. Accordingly, in view the observations made hereinabove, the petition is allowed. Consequently, Annexure P-10 dated 26.3.2003 is quashed and set aside. Respondents are now directed to consider the representation made by the Petitioner on 9.12.2002 afresh by passing a self-contained and reasoned order and also by taking into consideration the existing instructions on the point, within a period of 10 weeks after the production of certified copy of this judgment by the Petitioner. It is made clear that in the eventuality of Petitioner's representation being allowed, he will be entitled to all the consequential benefits. However, the benefits, which have already accrued to the private Respondents, shall not be withdrawn. The pending application(s), if any, also stands disposed of. No costs.

COPC (T) No. 250 of 2008:

4. In view of the judgment rendered in CWP(T) No. 9313 of 2008 (O.A. No. 680 of 2003), the present contempt petition is rendered infructuous and the same is dismissed having become infructuous, so also the pending application(s), if any.

CWP (T) No. 9941 of 2008 (O.A. No. 301 of 2003):

5. In view of the judgment rendered in CWP (T) No. 9313 of 2008 (O.A. No. 680 of 2003), the present petition is rendered infructuous and the same is dismissed having become infructuous, so also the pending application(s), if any.