
(2016) 03 SHI CK 0085
In the High Court Of Himachal Pradesh
Case No : LPA No. 618 of 2011

Daulat Ram

APPELLANT

Vs

State of HP and others

RESPONDENT

Date of Decision : 15-03-2016

Acts Referred:

Citation : (2016) 2 HimLR 1036 : (2016) ILRHP 264 : (2016) LatestHLJ(HP) 432

Hon'ble Judges : Mansoor Ahmad Mir, C.J.;Tarlok Singh Chauhan, J.

Bench : Division Bench

Advocate : Shreya Chauhan, Advocate, for the Appellant; Yudhbir Singh, Advocate, , Shrawan Dogra, Advocate General with Romesh Verma and Anup Rattan, Additional Advocate Generals and J.K. Verma, Deputy Advocate General, for the Respondent

Final Decision : Allowed

Judgement

Mansoor Ahmad Mir, C.J. (Oral)- This Letters Patent Appeal is directed against the judgment dated 6.7.2010, made by the learned Single Judge of this Court in CWP (T) No.5637 of 2008 titled Daulat Ram v. State of HP and others, whereby the writ petition filed by the petitioner came to be allowed and respondents were directed to regularise the services of the petitioner and also release him all arrears while treating him as Forest Guard, hereinafter referred to as "the impugned judgment", for short, on the grounds taken in the memo of appeal.

2. The State had also questioned the impugned judgment by the medium of LPA No.326 of 2010, titled State of HP and others v. Daulat Ram and another, which was dismissed vide judgment dated 27.7.2011.

3. The appellant herein/writ petitioner has questioned the impugned judgment only to the extent that he was to be appointed as Deputy Ranger and is entitled to all service benefits as Deputy Ranger but the Writ Court has fallen in an error in holding that his appointment as Forest Guard is legal and well founded.

4. Respondent No. 5 has filed the reply and admitted that the writ petitioner was

Deputy Ranger on 6.2.1996. His name was figuring at Sr. No. 8 of the LPC sent to the Government. It is apt to reproduce relevant portion of the reply filed by respondent No. 5 at page 83 of the paper-book, under the captioned "SUBJECT IN BRIEF" herein.

"SUBJECT IN BRIEF.

It is correct that Shri Daulat Ram was a Deputy Ranger on 6.2.1996. His name appears at serial No. 8 of the LPC sent to the Government by the replying respondent No.5 on 24.5.1996. It is denied that the entitlement of pay scale etc. at Government norms was payable with effect from 11.3.1995. The same are payable from 7.2.1996 as the management/property was actually taken over on 7.2.1996 from the replying respondent No.5. The applicant Shri Daulat Ram has received his salary from the replying respondent No.5 upto 6.2.1996. As far as previous benefits of service it is for the new employer to take decision on this score."

5. Mr. Anup Rattan, the learned Additional Advocate General argued that the appellant/writ petitioner has accepted the order as Forest Guard and now cannot make an "U" turn. The argument though attractive, is devoid of any force, for the following reasons.

6. It was the policy of the State Government that no such order should be made, which will adversely affect an employee of the institution, i.e., Kutlehar Forest. The petitioner immediately made representation and filed the Original Application before the Tribunal in the year 1999 without wasting any time for the redressal of his grievances. Thus, it cannot be said that the petitioner is precluded from seeking his redressal of his grievances.

7. The documents on the file do disclose that he was performing his duty as Deputy Ranger in Kutlehar Forests.

8. The reply-affidavit filed by respondent No. 5 has not been questioned by respondents No. 1 to 4. They have also not filed any response, rejoinder or replica to the said averments.

9. Having said so, it is held that the petitioner was to be appointed as Deputy Ranger and is entitled to all service benefits as Deputy Ranger right from the date of his appointment till his retirement, including retiral benefits.

10. Viewed thus, the LPA is allowed and impugned judgment is modified as indicated herein above. The LPA is disposed of, along with pending applications, if any.