

(2010) 12 SHI CK 0162
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 4165 of 2008

Dr. Chandresh Varshneya

APPELLANT

Vs

H.P. Krishi Vishwa Vidyalaya

RESPONDENT

Date of Decision : 21-12-2010

Acts Referred:

Citation : (2010) 12 SHI CK 0162

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Judgement

V.K. Sharma, J.—The petition has been filed on the following prayers vide para 7 (i) to (iii):

7 (i). That the impugned Annexure A-5 dated 3.1.1997 may be quashed and set aside.

(ii). That impugned Annexures A-6 and A-7 dated 19.12.1988 24.4.1989 respectively may be struck down only to the extent of striking down cut-off date i.e. 1.2.1988 and consequently the applicant may be declared eligible to the post of Professor in the subject of Pharmacology under the Personal Promotion Scheme.

(iii). That the Respondent-University may be directed to consider the case of the applicant for the post of Professor in the subject of Pharmacology under Personal Promotion Scheme with all consequential benefits like seniority, arrears of salary etc.

2. In reply, the Respondent-University has taken the following stand vide preliminary objection No. 3 and para 6 (xi) on merits:

3. The applicant was appointed as Associate Professor in the scale of Rs. 1200-1900 on 18.4.1988 with a starting pay of Rs. 1200/- p.m. Later on the Respondent-University adopted the revised pay scales on 19.12.1988 as recommended by the University Grants Commission vide its notification No.

10218/86 (Rev. Scales) HPKV/67471-551 dated 19.12.1988 Annexure R-1 which while revised the pay scale of Associate Professor including the applicant from Rs. 1200-1900 to Rs. 3700-5700 with clear-cut stipulation as per sub-para (i) amongst Ors. that the Personal Promotion Scheme will not be applicable on appointments made after 17.6.1987. An extract of sub-para (i) of the notification Annexure R-1 is reproduced below for facility of Hon"ble Court:

"Irrespective of the options already given by teachers regarding PPS/CAS, the University will consider the cases of all eligible teachers for promotion under PPS scheme as if no revision of any scale had taken place and no option given for those posts which would otherwise have been filled under the old PPS upto 17.6.1987."

It is also submitted in this context that the revised pay scales were not enforced on all the teachers but they were given an opportunity to exercise their option along with applicant as to whether they wish to retain the old pay scale of Rs. 1200-1900 or to opt for the revised pay scale of Rs. 3700-5700 along with its terms and conditions vide para 4 of notification No. 1-218/86-(Rev. Scales) HPKV/67471-551 dated 19.12.1988 (Annexure R-1). The contents of this para 4 are reproduced below for facility:

Para 4: "The concerned teachers are required to exercise options to come under these scales or otherwise in terms and conditions laid down in H.P. Govt. notification dated 24.11.1988 within a period of four months from the date of issue of this notification."

The applicant categorically opted for the revised pay scales of Rs. 3700-5700 vide option dated 6.1.89 annexed herewith as Annexure R-1/A which obviously meant he accepted the terms and conditions of the revised scale so much so condition of sub para (i) was thus accepted whereby the applicant became entitled only for Career Advancement Scheme which in fact is not applicable to the applicant as the scope of promotion under this scheme is only up to the scale of Rs. 3700-5700 (i.e. upto Associate Professors) which post the applicant has already been holding, while the scope of Personal Promotion Scheme vanished to the applicant as his appointment was made after 17.6.1987. Therefore, it is not understood as to how the applicant can opt for Personal Promotion Scheme contrary to his option for the revised pay scale together with its terms and conditions which clearly stated that Personal Promotion Scheme would not be applicable after 17.6.1987.

6 (xi). That the contents of para (xi) are not wholly correct. The applicant is not eligible to be considered for promotion under Personal Promotion Scheme, so his representation had rightly been rejected. No person who is similarly situate has either been considered for promotion or actually promoted under Personal Promotion Scheme. Only the teachers who have been appointed prior to 1.2.1988 are being considered under Personal Promotion Scheme.

3. On appointment as Associate Professor (Vety. Physiology & Pharmacology),

vide letter dated 18.4.1988, Annexure P-1, the Petitioner had joined the employment of the Respondent-University on 6.1.1988. At that time, rules regarding appointment of teachers by promotion (under Personal Promotion Scheme) issued vide letter dated 20.9.1986, Annexure P-2 were in force. The Petitioner submitted representation dated 2.12.1996, Annexure P-4 and prayed for being considered for promotion to the post of Professor under Personal Promotion Scheme. However, the claim was rejected vide letter dated 3.1.1997, Annexure A-5, on the ground that since the appointment of the Petitioner to the post of Associate Professor (Vety. Pharmacology) was after the cut-off date i.e. 1.2.1988, his case for promotion under Personal Promotion Scheme was not covered.

4. The Petitioner is laying challenge on notification dated 19.12.1988, Annexure P-6, whereby the cut-off date for applicability of Personal Promotion Scheme was fixed as 17.6.1987 and notification dated 24.4.1989, Annexure P-7, vide which the cut-off date was refixed as 1.2.1988. However, the fact remains that the qualifying service of 10 years which was the pre-requisite for grant of personal promotion was later on reduced to 8 years as per Rules, Annexure R-5. Sub rule (ii) of Rule 3 being relevant for the purpose of the present controversy is extracted below:

(ii) By 30th June of the year in which a teacher offers himself for assessment, he must have put in atleast 10 years (Now 8 years w.e.f.) 1.1.88 vide item No. 9 of BOM meeting held on 10.6.88 and notified vide Notification No. 2-15/85-HPVK (GA) Vol. II/40397-442 dated 25.7.89) of service in the HPKV itself in the cadre from which he is being considered for promotion.

5. It is manifest from office order dated 24.4.2000, Annexure A-11 (wrongly marked as A-10) that one Dr. R.C. Jaggi, Scientist (Soil), Department of Soil Sciences, was promoted from the rank of Scientist (Soil) to the rank of Senior Scientist (Soil) under the Personal Promotion Scheme w.e.f. 1.12.1995. In case he was given this benefit after 10 years, his initial date of appointment would relate back to 30.11.1985 or even prior to that and in case the benefit was given after 8 years, the date of appointment would be 30.11.1987 or even prior to that. As per the case of the Petitioner, he was appointed on 1.6.1988. On this analogy, prima facie, the Petitioner would also be covered under the Personal Promotion Scheme issued vide rules Annexure P-2 and Annexure R-5.

6. In view of the above, impugned order dated 3.1.1997, Annexure P-5 is quashed. Consequently, if on facts, the case of the Petitioner is comparable to that of the aforesaid Dr. R.C. Jaggi, and on that analogy, he is covered under rules Annexure P-2 and Annexure R-5, his case for promotion to the post of Professor in terms of Personal Promotion Scheme, Annexure P-2 and Annexure R-5 shall be considered by the Respondent-University from the due date i.e. completion of 8 years of service as Associate Professor within three months from today on production of a copy of this judgment by the Petitioner to the Respondent-University. Needless to say that consequential benefits, if any,

flowing from the present judgment, would follow.

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