
(2011) 02 SHI CK 0103
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 16603 of 2008

Fatch Chand Rana

APPELLANT

Vs

State of H.P. and Another

RESPONDENT

Date of Decision : 24-02-2011

Acts Referred:

Citation : (2011) 02 SHI CK 0103

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Judgement

Sanjay Karol, J.—It is not disputed that the Petitioner was earlier working with the H.P. Khadi and Village Industry Board. It is also not in dispute that Petitioner was working on deputation with the Respondent corporation. Vide order dated 30th March, 1988 (Annexure-A1) Petitioner was absorbed in the Respondent corporation. The same is reproduced as under:

OFFICE ORDER

Consequent upon the recommendations of the Departmental Promotion Committee, and in exercise of the powers delegated vide item No. 3 of the Additional Financial and Administrative powers to the undersigned, Sh. Fateh Chand Rana, Auditor (SAS) on deputation from HP Khadi & Village Industries Board is hereby permanently absorbed in the service of the HP Tourism Development Corporation in Public/Corporation interest w.e.f. 11.9.1987, the date when his lien was terminated from his parent office (HP Khadi & Village Industries Board).

It is hereby further ordered that Sh. Fateh Chand Rana will cease to draw deputation allowance w.e.f. 11.9.1987, and draw salary in the pay scale of Rs. 600-1120 (Parent organization scale), against the higher vacant post of Supdt. Grade-III, lying vacant in the pay scale of Rs. 7501300 at the Head-Office.

(S.N. Verma) Managing Director.

Vide another order dated 11.11.1988 Petitioner was granted benefit of annual increments @ Rs. 40/- in the pay scale of Rs. 600-1120 and his basic pay was increased from 1000/- to Rs. 1040/- per month w.e.f. 1.5.1988.

2. Undisputedly, Petitioner continues to render his services satisfactory. He also continuously received all monetary benefits in terms of Annexure-A1 and A2. Even other monetary benefits accruing thereupon, to which the Petitioner was otherwise entitled to were also released to him unconditionally. This process continued uninterruptedly till the year 2002 when without even issuing any show cause notice to him, Respondent-Corporation issued office order dated 5.10.2002 (Annexure-A7) whereby his pay was refixed on the lower side. His pay was worked out in the pay scale of 600-1120 w.e.f. 11.9.1987 and 1500-2600 also w.e.f. from 11.9.1987. Now this is totally impermissible in law. Had the Petitioner not been entitled to the benefits of the equivalent pay, disbursed to him, he ought to have been informed about the same at the time of his absorption in the Respondent corporation. Petitioner - 3 would have then taken a decision whether to accept his appointment on such terms which were detrimental to his monetary interest or not. This was not so done by the Respondent corporation. The Respondents' plea that Petitioner's appointment on absorption by itself was bad in the eyes of law cannot be accepted at such a belated stage. Undisputedly no audit objection was ever raised against the actions of the Respondents. The plea of uncertainty about the parent department according benefit of said pay to the Petitioner cannot be allowed to be taken at this stage for the reason that in terms of orders dated 11.11.1988 (Annexure-A2) and 11.11.1998 (Annexure A3), Respondents themselves had taken into account the fact that Petitioner was fully qualified and entitled to the same.

3. Consequently, impugned action in refixing the Petitioner pay is untenable in law and the impugned order dated 5.10.2002 is quashed with all consequential actions to follow. The Respondents are directed to take action within a period of 4 months from today on the receipt of the copy of this judgment.

4. With these observations the petition is disposed of.