
(2011) 08 SHI CK 0241
In the High Court Of Himachal Pradesh
Case No : C.W.P (T) No. 11556 of 2008

Gautam Chand

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Citation : (2011) 08 SHI CK 0241

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

Bench : Single Bench

Judgement

V.K. Sharma, J.—The petition has been filed on the following substantive prayers:

(i) That office memorandum dated 14-9-2004(Annexure A-2) vide which the representation of the applicant was rejected, may be quashed and set-aside.

(ii) That the Respondents may be directed to consider the applicant for promotion to the post of Research Officer(District Planning Officer) from the date when this post was available as per Model Roster point of Scheduled Tribe candidate with all consequential benefits.

2. In reply, the Respondent has taken the following stand vide para 6(v) to 6(vii):

Para 6(v, vi, vii) It is a fact that there are 20 posts of Research officers in the Planning Department to be filled up 50% by way of promotion and 50% by direct recruitment. The R&P rules for the posts of Research Officers were notified in the year 1984. At the time of initial constitution of the cadre of Research Officer first three posts were filled up by absorption of Research officers who were working in the department on the date of notification of the Rules. Next three posts were filled up by promotion and the promotees were kept out of the provision of the roster in compliance of the R&P Rules. After having filled up these six posts the subsequent posts have filled up on the basis of 50:50 provision of the R&P Rules. The contention of the applicant that till date about 15 persons have been promoted as Research Officers is wrong. In fact, only 10 persons have been

promoted as Research Officers till date and all the promotees still exist in the cadre. When these posts of Research officers were filled up by promotion, the applicant was not borne in the strength of the Planning Department and No. Scheduled Tribe candidate was available in the feeder category of Assistant Research officers for promotion to the post of Ros against point No. 4 of 40 point roster. Having No. other option available, Point No. 4 had to be de-reserved in consultation with the department of Personnel. After de-reservation of Point No. 4 of 40 Point roster, the promotions were also made during the years 1988 & 1990. Even during two consecutive recruitment years i.e. 1988 and 1990, the applicant was not eligible for promotion as he had joined the government Service in December, 1989 only. The next promotion was made during the year 1997 although the applicant was eligible for promotion after having rendered five years service but he could not be considered because the point No. 10 of 40 Point roster was meant to be filled up from general category. As for as model roster is concerned, it came in to existence w.e.f 12th December 1997 only. According to model roster Point No. 14 goes to the Schedule Tribes 3 Candidate. At present all the 10 posts meant for promotees stand filled up & since 1997, No. promotion has been made in the department as there is No. vacant post in the cadre for promotees.

3. Rejoinder refuting the above stand on behalf of the Respondent and reiterating the averments set up in the petition has been filed.

4. The Petitioner, who belongs to a Scheduled Tribe, had initially joined the employment of the Respondent-department as Assistant Research Officer. The next promotional post is that of Research Officer. Though, the Petitioner has already been promoted as Research Officer w.e.f. 28.6.2007, yet according to him his claim for promotion relates back to the year 1997 when he became eligible for such promotion against a post reserved for Scheduled Tribe.

5. In view of the above reply, the Petitioner may make a representation supported by additional documents, if any, alongwith copy of this judgment to the Respondent within one month from today, who shall consider and take a final decision thereon within next three months in accordance with law, after affording an opportunity of being heard to the Petitioner, if so desired.

6. The petition as also pending application(s), if any, stand disposed of.