
(2011) 05 SHI CK 0021
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 10046 of 2008

Gopi Ram

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 10-05-2011

Acts Referred:

Citation : (2011) 05 SHI CK 0021

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

Bench : Single Bench

Judgement

V.K. Ahuja, J.—The Petitioner who was serving as a Central Head Teacher retired from service on 28.2.2003 on his superannuation. A notice, dated 10.9.2003, (Annexure A-1), was issued to him, that he should deposit a sum of Rs. 24,500/- and Rs. 19,200/-, as per the objection raised in the audit. These amounts appear to be in regard to the LTC availed by the Petitioner for the block years 1990-93 and 1994-97. The Petitioner had challenged the issuance of the said notice issued by the Block Primary Education Officer being illegal. Reply to the petition was filed by the Respondents.

2. I have heard the learned Counsel for the parties and have gone through the record of the case.

3. It is clear from the reply filed by the Respondents that in the audit, it has been pointed out that a certificate should be obtained by the Petitioner from the Tourism Corporation that he had actually performed the LTC tour and he should produce the same. However, this point was never mentioned in the notice issued to the Petitioner. Once the Petitioner had already retired and this amount was sought to be recovered from him, he should have been issued a show cause notice mentioning reasons for such demand having been made by the Respondents so that he could produce the necessary documents or clarify the point. The Respondents did not issue him a show cause notice mentioning reasons for such demand having been made by them and passed the impugned order (Annexure A-1).

4. Thus, it is clear that the principles of natural justice have not been followed, while issuing notice to the Petitioner, who stood retired on the date of issuance of the impugned notice. The Petitioner was entitled to know as to what were the reasons for the demand made from him.

5. In view of the above discussion, the writ petition is allowed and it is directed that no action shall be taken on the impugned notice Annexure A-1 for the present. However, the Respondents are at liberty to issue a show cause notice to the Petitioner giving reasons for the demand so made and demanding the documents which are required to be produced by him. The Respondents shall give at least one 2 3 month's time to the Petitioner to reply to such notice and after considering the reply, including the documents furnished by the Petitioner with the reply, the Respondents shall be at liberty to take fresh action in accordance with law.

6. With the above directions, the writ petition stands disposed of, so also the pending application(s), if any.