
(2011) 02 SHI CK 0080
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 13644 of 2008

Guddi Devi alias Damodri

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 23-02-2011

Acts Referred:

Citation : (2011) 02 SHI CK 0080

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—Petitioner was promoted on the recommendations of the Departmental Promotion Committee, as whole time contingent paid Class-IV, vide office order dated 7.3.2005. He has been reverted vide office order dated 13.4.2006. Office order dated 13.4.2006 has been issued on the basis of the judgment of the erstwhile Himachal Pradesh Administrative Tribunal rendered in O. As. No. 1765/2005 and 1716/2005. Petitioner has not been heard before the issuance of office order dated 13.4.2006. He has suffered civil and evil consequences. Though he was regularly promoted, he has been reverted without hearing him. It was expected from the Respondent-State atleast to issue notice to the Petitioner before the issuance of office order dated 13.4.2006 to explain his position.

2. Their Lordships of the Hon''ble Supreme Court in Union of India (UOI) and Another Vs. Narendra Singh, have held that a person must be given an opportunity before he is actually reverted. He may be in a position to satisfy the authorities that there was no mistake. Their Lordships have further held that even otherwise, principles of natural justice and fair play require giving of such opportunity to him. Their Lordships have held as under:

34. True it is that before such an action is taken and a person is actually reverted, he must be given an opportunity to show cause why the proposed

action should not be taken. He may be able to satisfy the Authorities that there was no such mistake. But even otherwise, principles of natural justice and fair play require giving of such opportunity to him. But as observed earlier, in the instance case, in accordance with Rule 31-A of the Fundamental Rules, notice was issued to the Respondent-employee, explanation was sought and thereafter the order was passed. The said order, in our considered view, was just, proper and in consonance with law and it ought not to have been set aside by the Tribunal or by the High Court. To that extent, therefore, the orders impugned in this appeal deserve to be set aside.

3. In view of the observations and the discussions made hereinabove, the petition is allowed. Annexure A-6 dated 13.4.2006 is quashed and set aside. However, liberty is reserved to the Respondents to proceed with the matter in accordance with law. No costs.