
(2012) 09 SHI CK 0097
In the High Court Of Himachal Pradesh
Case No : CWP No. 7401 of 2011-I

Hari Singh

APPELLANT

Vs

Himachal Pradesh Road Transport Corporation

RESPONDENT

Date of Decision : 03-09-2012

Acts Referred:

Citation : (2012) 09 SHI CK 0097

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : M.L. Sharma, for the Appellant; Adarsh Sharma, for the Respondent

Judgement

Justice Sanjay Karol, J.—Petitioner has prayed for the following reliefs:-

- 1 To quash the impugned order dated 21-06-2011 ANNEXURE-P/10 being contrary to the facts on record and therefore arbitrary and illegal.
- 2 To direct the respondent to regularize the services of the petitioner w.e.f. 29-06-2000 like other similarly situated persons with all consequential benefits with 12% interest.

Petitioner was engaged as a Driver on contract basis for a period of one year w.e.f. 29.6.1999. He was deployed to drive bus No. HP-28/0675. On 21.6.2000, while petitioner was driving the bus, it met with a fatal accident. Five passengers died and fifteen were seriously injured. FIR in relation to the said accident was registered by the police and criminal proceedings initiated against the petitioner. It is not in dispute that in the criminal proceedings, petitioner stands acquitted by the Court of Additional Chief Judicial Magistrate, Sarkaghat, District Mandi, H.P. vide judgment dated 17.11.2008 which stands confirmed by this Court.

2. Simultaneously, respondents-Corporation served a show cause notice dated 4.7.2000 upon the petitioner calling upon him to show cause as to why his services be not terminated, to which petitioner responded. On 15.2.2000, the said show cause notice was withdrawn vide Office order dated 15.2.2000, which

reads as under:-

HIMACHAL ROAD TRANSPORT CORPORATION SARKAGHAT (H.P.)

No. HRTC : SGT : ESTT: 2000-01/11153

Dated 15.2.2K

OFFICE ORDER

"SHOW CAUSE NOTICE" No. HRTC-SGT/Estt./DVR/3047 dated 4.7.2000, issued to Shri Hari Singh Driver on contract basis is hereby withdrawn.

Regional Manager, HRTC, Sarkaghat.

3. Noticeably, petitioner had also received injuries in the accident and could not join duties till 4th July, 2000. It is clear that by this time his contractual period had already expired on 28.6.2000.

4. Petitioner represented to the authorities for his re-engagement and regularization. Petitioner claimed that the accident did not take place due to his fault and since services of Drivers who were appointed with him stood regularized, as such, similar benefits be accorded to him. Vide judgment dated 1.12.2010 passed by this Court in CWP (T) No. 7319 of 2008 titled as Hari Singh versus HRTC and others, petitioner was permitted to make a representation which stands decided in terms of the impugned order. It is evidently clear that respondents have not renewed the petitioner's contract. Petitioner was not a regularly appointed employee. To further continue with engagement of a Driver, more so who was driving the vehicle which met with an accident which resulted into fatal injuries, is purely a matter which is to be considered by the appointing authority, based on several considerations and factors. Courts cannot sit over such judgment. In the instant case, action of the respondents is neither arbitrary/illegal nor whimsical/capricious. Respondents are the best persons to adjudge the suitability of the candidates with regard to their engagement/re-engagement. It is also for them to decide as to whether services of such persons are to be renewed at all or not. Respondents, in their wisdom rightly withdrew the show cause notice since contractual period of petitioner's engagement stood completed and his services were not re-engaged. It cannot be said that petitioner was not re-engaged in violation of the principle of natural justice, contrary to the rules or out of bias or malafides. Acquittal in a criminal matter by itself cannot be a ground for re-engagement of the petitioner. In a criminal matter, Court has to adjudge the criminal intent and negligence of the accused whereas in the matters of public engagement various factors including reputation of the institution and suitability and desirability of the candidate is to be considered.

I do not find any illegality, infirmity or perversity in the impugned order, consequently, the present petition without any merits is dismissed. Pending application(s), if any, also stand disposed of.