
(2011) 08 SHI CK 0055
In the High Court Of Himachal Pradesh
Case No : CWP 2049 of 2011

Hemant Kumar

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 12-08-2011

Acts Referred:

Citation : (2011) 08 SHI CK 0055

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Surjit Singh, J.—Heard and gone through the record.

2. Petitioner was posted as Constable in the Police Department at Shimla, in the year, 1995, when he was directed to report for duty at Police Lines, Kaithu, Shimla. He, allegedly, did not comply with the order. A notice, calling upon him, to show cause why penalty of "Censure" be not imposed, was served upon him. He did not respond to that notice and, therefore, proposed penalty of "Censure" was imposed, vide Annexure P-3, which is dated 21.11.1995. Three more Constables, alongwith the Petitioner, were visited with the aforesaid penalty. Petitioner and Leela Dass, one of the other three Constables, filed appeal against the order of penalty of "Censure". Their appeal was accepted by Deputy Inspector General of Police, vide order dated 20.2.1996, copy Annexure P-7. It was held that the Petitioner and his colleague Leela Dass, could not comply with the direction for attending duty at Police Lines, Kaithu, because they had not been relieved by the Officer, with whom they were attached.

3. Thereafter, in the year 1996, some tests of Constables were to be conducted for promoting them to the post of Head Constables. Petitioner was also eligible for taking that test, but he was not permitted to take that test, on the ground that he had been visited with a penalty, vide order, copy Annexure P-3, despite the fact that the said order of penalty, had been set aside in appeal, vide order,

copy Annexure P-7 of the D.I.G.

4. Petitioner did not challenge the action of the Respondents, in not allowing him to take the test for promotion, immediately. However, his colleague Leela Dass filed an Original Application before the H.P. State Administrative Tribunal. That petition, on abolition of the Tribunal, got transferred to this Court. That was heard and decided by this Court, vide judgment dated 17.8.2010, copy Annexure P-10. Allowing that petition of Leela Dass, a colleague of the Petitioner, this Court directed that Petitioner be treated as having passed the requisite test for promotion to the post of Head Constable and be given promotion and all consequential benefits.

5. After the case of Leela Dass was decided in his favor by this Court, Petitioner woke up from his slumber and filed the present petition, in the year 2011. Petitioner, having approached this Court, about 15 years after the impugned action of the Respondents, cannot be treated on par with his companion Leela Dass. However, the fact remains that his candidature, for taking test for promotion to the post of Head Constable, was rejected illegally and on the grounds which did not exist. So it is ordered that he, like Leela Dass, be also treated as having taken the test and passed the same, and given promotion as Head Constable, with consequential benefits from the date of petition, i.e. 22.3.2011.

Petition is disposed of.