

(2012) 03 SHI CK 0236
In the High Court Of Himachal Pradesh
Case No : CWP No. 3322 of 2010-D

Hoshiar Singh

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 19-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0236

Hon'ble Judges : Kurian Joseph, J; Dharam Chand Chaudhary, J

Bench : Division Bench

Advocate : Rahul Mahajan, for the Appellant; R.K. Bawa, AG with Mr. Ankush Dass Sood, Addl. AG for respondents No. 1 and 2 and Mr. B.C. Negi, Advocate, for respondents No. 3 and 4, for the Respondent

Judgement

Justice Kurian Joseph, C.J.—The petitioner is aggrieved since his dispute has not been referred to by the Labour Commissioner for adjudication before the Industrial Tribunal/Labour Court. It is seen from the impugned order that the Labour Commissioner has considered the demand and the report on conciliation. It has been found that the petitioner staked the claim after more than 10 years of his disengagement. Therefore, the reference has been declined in the light of the decision of this Court in M.C. Paonta Sahib versus State of Himachal Pradesh. There is nothing on record to show that the dispute was otherwise kept alive. The claim has thus become stale. We find that recently a Full Bench of this Court has also taken the same view in Liaq Ram versus State of H.P., decided on 6.1.2011. The issue is, thus, covered against the petitioner. However, in case the petitioner has a case of any junior being engaged without considering the lawful claim of the petitioner, it will be open to him to bring the same to the notice of the second respondent in which case the second respondent will look into the matter and take appropriate action in accordance with law and justice within a period of three months from the date of production of copy of this judgment along with copy of the writ petition, by the petitioner. However, we make it clear that this judgment shall not stand in the way of the petitioner approaching the original appointing authority pointing out the instances, if any, whereby the

juniors have been retained, in which case the matter will be duly examined by the said authority. The writ petition is disposed of, so also the pending application(s), if any.