

(2010) 12 SHI CK 0093
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 8960 of 2008

Hukam Chand

APPELLANT

Vs

State of Himachal Pradesh and Another

RESPONDENT

Date of Decision : 21-12-2010

Acts Referred:

Citation : (2010) 12 SHI CK 0093

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

Bench : Single Bench

Final Decision : Allowed

Judgement

V.K. Sharma, J.—The petition has been filed on the following prayer vide para 7(1):

That the Respondents may very kindly be directed to regularise the services of the applicant as Cook with effect from the due date with all consequential benefits.

2. In reply the Respondents have taken the following stand vide paras 6(1) and (2):

(1) In reply to contents of this para it is admitted that the applicant was engaged as part time cook i.e two hours in the morning and two hours in the evening w.e.f 1.1.1980. The applicant worked in the aforesaid capacity till 18.4.1995. It is also admitted that the services of the applicant from part time cook was converted into whole time contingent paid cook w.e.f 19.4.1995 and is still working in the same capacity. The rest of the averment made in this para needs no reply beign matter of record.

(2) In reply to contents of this para it is submitted that the applicant is working in the Respondent department in the capacity of whole time contingent paid cook for the last seven years. The fact that applicant had also worked as a part time cook from 1.1.1980 to 18.4.1995 is admitted. However, the working of the

applicant in this capacity does not result into creation of vested right to be regularized as a cook. It is worthwhile to mention here that as per policy of the Govt. an employee who is engaged as daily waged contingent paid worker initially shall be regularized after completion of eight years of service provided such an employee continuously worked for 240 days minimum in a calendar year. The copy of guidelines/directions issued by the Govt. of H.P. department of Personnel in this regard is appended herewith and marked as Annexure R-A.

3. In view of the above, it is manifest that the Petitioner was initially engaged as part time Cook on 1.1.1980. Admittedly, as per the policy of the State Government a part time worker is vested with the status of a contingent/whole time worker after completion of 10 years of service and thereafter after putting in further service of 8 years is entitled for regularization. In the present case, the Petitioner had completed the requisite 10 years service as part time Cook on 31.12.1989. Thus, he was entitled for grant of status of daily wage Cook on and with effect from 1.1.1990. Thereafter, his services as daily wage Cook were liable to be regularized after 8 years i.e on and with effect from 1.1.1998. However, he was granted status of daily wage Cook only on 19.4.1995 and his services are yet to be regularized.

4. In view of the above, the petition is allowed with a direction to the Respondents/competent authority to consider the case of the Petitioner for grant of status of contingent/whole time Cook w.e.f 1.1.1990 and thereafter regularize his services w.e.f 1.1.1998, along with consequential benefits, within a period of three months from production of copy of this judgment by the Petitioner, failing which interest @ 9% per annum shall follow.

5. The petition, so also the pending CMP(s), if any stand disposed of in the above terms.