

(2010) 11 SHI CK 0015
In the High Court Of Himachal Pradesh
Case No : CWP No. 4828 of 2010

Jai Chand

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 19-11-2010

Acts Referred:

Citation : (2010) 11 SHI CK 0015

Hon'ble Judges : Kurian Joseph, C.J;V.K. Sharma, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The writ petition has been filed with the following prayers:

a)That the Respondents may be directed to consider the Petitioner having been appointed on regular basis w.e.f. 26.3.2008, the date of issuance of letter to the Petitioner to engage his services on daily wage basis, for all intents and purposes and to quash and set aside the impugned act of Respondents in engaging the services of the Petitioner as daily wage beldar;

(b) That further directions may be issued to the Respondents to calculate and pay arrears of salary to the Petitioner forthwith alongwith interest @ 9% per annum with consequential directions to the Respondents to consider the Petitioner as having been regularly appointed for all intents and purposes I.e pay, seniority etc. etc;

2. A similar issue arose before this Court leading to judgment in CWP No. 2466 of 2010 and connected matters, in Hem Raj and Ors. v. State of H.P. and Ors., decided on 28.10.2010, wherein this Court passed the following judgment:

In these writ petitions the Petitioners claim regular appointment from the date(s) of their appointment(s) since they have been recruited against the posts reserved for physically challenged persons. In the reply furnished on behalf of Respondents No. 1 to 5, it is admitted at para 4 that the department has implemented the provisions under the Persons with Disabilities (Equal

opportunities, Protection of Rights and full Participation) Act, 1995. Further it is admitted at para 7 that "the department of Animal Husbandry had published the advertisement in the newspaper for filling up the posts of daily paid beldars on daily wages basis for the candidates belonging to the disabled category.

2. The question is whether the department of Animal Husbandry has satisfied the 3% quota for disabled persons in terms of requirement under the Act No. 11 of 1995. It cannot satisfy the requirement of reservation in regular service by engaging persons on daily wages. The requirement has to be satisfied against the cadre strength of beldars. Cadre strength of beldars has to be worked as the cadre strength of regular beldars and not of the daily waged beldars. Certainly, it is open to the department to define the cadre strength of regular beldars and cadre strength of daily waged beldars. If such a distinction is sought to be made by the department then the requirement under the statute is that 3% quota should be met in the cadre of daily waged beldars and in the case of regular beldars. It is not clear from the reply as to whether this requirement of law has been met by the Animal Husbandry department. Therefore, these writ petitions are disposed of as follows:

There will be a direction to the Director, Animal Husbandry to see whether 3% quota of disabled persons has been met in the category of regular beldars. In case there is deficiency in the 3% quota in the cadre strength of regular beldars, the persons recruited in these cases shall be adjusted against those regular vacancies, since the recruitment process is the same for daily wages beldars and regular beldars, . We make it clear that it is open to the Animal Husbandry department to ear-mark separate quota of 3% as against the daily waged beldars as well, subject to fulfillment of regular beldars in the ear-marked quota of 3%. Needful adjustments in the case of Petitioners in the light of this judgment shall be done by the Director, Animal Husbandry, within a period of four months from the date of production of copy of this judgment by the Petitioners. Consequential benefits shall also be disbursed within another period of two months.

3. Being similarly situated, the same treatment shall also be extended to the Petitioner herein also, as extended to the Petitioners in the judgment, as extracted above. This writ petition is disposed of in terms of the judgment, as extracted above.

4. The writ petition is disposed of, so also the pending applications, if any.