
(2011) 08 SHI CK 0133
In the High Court Of Himachal Pradesh
Case No : C.W.P (T) No. 10035 of 2008

Jaswant Singh

APPELLANT

Vs

The State of Himachal Pradesh and Another

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Citation : (2011) 08 SHI CK 0133

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

Bench : Single Bench

Judgement

V.K. Sharma, J.—The petition has been filed on the following substantive prayers:

(i). That the entire service of the applicant rendered on ad hoc basis with effect from 11.3.1987 till 4.3.1995 when he was regularized may kindly be counted towards annual increments.

(ii). That the pay of the applicant may kindly be ordered to be fixed on his regularization at the stage after adding 8 annual increments and he may also be held entitled to benefit under proficiency step up/Assured Career Scheme for the added years of service.

2. In reply, the Respondents have taken the following stand by way of preliminary submissions and vide para 3 (i) & (ii) on merits:

Preliminary submissions:

It is submitted that the applicant was appointed as Instructor Mathematics on daily wages in this Department during September, 1985 to 30.10.1986 & 11.3.1987 to 3.3.1995 on ad hoc basis. Thereafter, Government of Himachal Pradesh framed policy to regularize the service of those employees who have completed five years of their ad hoc service on or before 31.7.1984. As per policy the service of the applicant was regularized. The case of allowing increments of ad hoc services has been referred to Finance Department being a policy matter. On receipt of advice from Finance Department the case will be proceeded

accordingly.

On merits:

3. (i) & (ii). That the contents of this para are admitted. However, it is submitted that the case has already been referred to the Finance Department and as and when advice if Finance Department is received case will be processed accordingly.

3. In supplementary reply, the Respondents have set up the following averments vide para 3:

3. That it is submitted that the provisions contained in F.R. 26 are crystal clear on the point at issue which clearly stipulates that "all duty posts including probation period" counts towards increment and there exist No. such provision in rules for counting of initial ad hoc service for the purpose of increment. Hence the applicant is not entitled to the benefit he has claimed. A copy of clarification issued by Government vide Principal Secretary (Technical Education) letter dated 02.06.2004 (replying Respondent No. 1) is placed as Annexure R-1 may kindly be taken on record.

4. Rejoinder refuting the above stands on behalf of the Respondents and reiterating the averments set up in the petition has been filed.

5. The learned Counsel for the Petitioner submits at the very outset that the case of the Petitioner is covered under judgment, dated 19.5.2009, rendered by a learned Single Judge of this Court in CWP (T) No. 7712 of 2008, Paras Ram v. State of Himachal Pradesh and Anr., reported as Latest HLJ 2009 (HP) 887.

6. In view of the above, if on facts the case of the Petitioner is covered under the judgment referred to hereinabove in CWP (T) No. 7712 of 2008 and if the same has attained finality and has been implemented and the Petitioner is similarly situate, he shall also be treated similarly without any discrimination and benefit of the said judgment shall be extended to him within three months from the date of production of copies of this judgment and the judgment referred to hereinabove by the Petitioner before the espondents/competent authority, failing which interest at the rate of 9% per annum shall also be payable.

7. The writ petition stands disposed of, so also pending applications, if any.