

(2012) 03 SHI CK 0106
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 11103 of 2008

Jitender Kumar and Others

APPELLANT

Vs

Himachal Road Transport Corporation and The Divisional
Manager, H.R.T.C.

RESPONDENT

Date of Decision : 17-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0106

Hon'ble Judges : Dharam Chand Chaudhary, J

Bench : Single Bench

Advocate : Bindiya Sharma, for the Appellant; Adarsh Sharma, for the
Respondent

Judgement

Justice Dharam Chand Chaudhary, Judge

1. The petitioners who are working as Booking Agents at different Bus Stands as per the detail given in para 6 (ii) of this petition have sought the following relief:-

7.(b) The respondents be restrained from replacing the applicants by another set of the contract employees;

(c) that in view of the past experience and eligibility qualifications of the applicants, the respondent be directed to regularize the service of the applicants.

As per the apprehension of the petitioners, the averments made in the petition, which initially was presented before the erstwhile Administrative Tribunal is that the respondent may replace them by making appointment of TMPA.

2. The respondents No. 1 and 2 in para 2 of the reply on merits, have ruled out such apprehension of the petitioners while denying the contentions to this effect made in the petition being wrong and submitted that they have no intention of replacing the petitioner with TMPA. It has also been pointed out that the post of TMPA is entirely distinct and different in terms of the employment as well as nature of duties from that of the petitioner who being merely working as Agents

of respondent-Corporation are at liberty to continue with the agency held by them subject to availability of work. Thus, in reply to the writ petition, a specific stand has been taken by the respondents that there is no intention of the Corporation to discontinue the petitioners from running the respective agencies held by them.

3. It is in the above background this Court has heard learned counsel on both sides.

4. Learned counsel representing the petitioner seems to be satisfied with the above stand taken by the respondents and while placing reliance on a recent judgment dated 7th March, 2012 of this Court in CWP No. 1880 of 2011 and its connected petitions has submitted that the point in issue in this petition is identical to that in CWP No. 1880 of 2011 decided vide judgment referred to hereinabove. Learned counsel thus submits that the same relief may be granted to the petitioners in this petition also.

5. In CWP No. 1880 of 2011 supra this Court inter alia has held as under:-

Having heard learned counsel for the petitioners and learned counsel appearing for the Corporation, we are of the view that ends of justice will be met in case the direction is issued to the Corporation that as and when the steps are taken for filling up the posts of Booking Clerks, the petitioners will be preferentially considered according to their seniority order. Ordered accordingly. It is made clear that till such time the present arrangement will continue and, as and when any of the petitioners is deputed for any regular service, remuneration in respect of that service will be paid.

6. If coming to the relief sought in this petition, since the respondents in reply to the writ petition have taken a specific stand that there is no intention to discontinue the respective agencies being held by the petitioner till the work is available, therefore, the petition qua the relief sought in para 7(b) reproduced at the very outset has turned infructuous.

7. The ratio of the judgment of this Court reproduced supra shall take care of the relief sought by the petitioners vide para 7(c) of the petition. The petition is accordingly allowed with a direction to the respondents Corporation that as and when the steps are taken for filling up the posts of Booking Clerks the petitioner will be preferentially considered according to their seniority. In case the petitioners are still holding the respective agencies and continuing as Booking Agents on their respective place, it is further directed that this arrangement will continue. With the above observations, the writ petition stands finally disposed of, so also the pending application(s), if any.