

(2023) 04 SHI CK 0026

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No.7176 Of 2021

Jitender Pathania

APPELLANT

Vs

State Of H.P. & Others

RESPONDENT

Date of Decision : 04-04-2023

Acts Referred:

Citation : (2023) 04 SHI CK 0026

Hon'ble Judges : Tarlok Singh Chauhan, J;Virender Singh, J

Bench : Division Bench

Advocate : Arush Matlotia, Anup Rattan, I.N. Mehta, Ramakant Sharma, Priyanka Chauhan

Judgement

Tarlok Singh Chauhan, J

1. The writ petition has been filed for the grant of following reliefs:-

"a. That the entire record pertaining to the instant case may kindly be summoned and subjected to scrutiny by this Hon'ble Court.

b. That a writ in the nature of Certiorari for quashing the clause 7 of the R&P rules for the post of Assistant Engineer to the extent non-providing the quota for promotion to Persons With Disability.

c. That a writ in the nature of Mandamus may kindly be issued and directing the respondents department to amend the rules to the post of Assistant Engineer by providing promotional avenues/reservation to persons with disability in terms of law laid down by the Hon'ble Supreme Court (Annexure P- 7)with in time bound manner and the petitioner may kindly be promoted to the post of Assistant Engineer under the above mentioned quota with all consequential benefits.

d. That a writ in the nature of Mandamus may kindly be issued directing the respondent departments to decide the representation dated 17.08.2021 (Annexure P-8) within stipulated time."

2. It is not in dispute that the Hon'ble Supreme Court in its judgment dated 28.06.2021 in Civil Appeal No. 59 of 2021, titled the State of Kerala & others vs. Leesamma Joseph (Annexure P-7), while upholding the judgment of the Kerala High Court has clearly provided for reservation in promotion to disabled persons in all posts that are identified for the said purpose.

3. The respondent-State on its own could not postpone the effect of the aforesaid judgment, more especially, when the judgment only narrated what had earlier being pronounced as noted in the judgment itself.

4. In the given facts and circumstances of the case, we deem it appropriate to dispose of this petition by directing the respondents to provide reservation in promotion in all posts after identifying said posts and thereafter make promotions, in accordance with law. The entire exercise be completed within six months from today. Ordered accordingly.

5. Pending miscellaneous application(s), if any, also stand disposed of.