

(2011) 03 SHI CK 0191
In the High Court Of Himachal Pradesh
Case No : CWP (T) 2352 of 2008

Joginder Singh

APPELLANT

Vs

Dr. Yashwant Singh and Others

RESPONDENT

Date of Decision : 08-03-2011

Acts Referred:

Citation : (2011) 03 SHI CK 0191

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—By means of this petition the Petitioner prays that the Respondents be directed to consider and promote the Petitioner as Technical Assistant w.e.f. 1989 with all consequential benefits.

2. The case of the Petitioner is that he joined the Respondents-University as Field Assistant in the year 1982 and was regularized as such on 20.11.1984. The Petitioner claims that he belongs to scheduled caste category, however, he was overlooked for promotion to the post of Field Assistant Grade-II from this category and Respondents 3 and 4 were promoted, even though the post was meant for a scheduled: 2: caste candidate as per 40-point roster.

3. The stand of the University is that the Petitioner was appointed against the open category. Various seniority lists were issued in which the Petitioner was not shown to be belonging to the scheduled caste category. The Petitioner never informed the University that he belongs to the scheduled caste category and this fact was first time brought to the notice of the University by the Petitioner in his representation made on 3.7.1993 and thereafter the Petitioner was duly promoted in the year 1996 when the first vacancy arose. Further according to the University after the Petitioner made representation on 3.7.1993 enquiry was got conducted and it was found that the Petitioner actually belongs to the scheduled caste category. Thereafter the case of his promotion was processed

and when the post of Technical Assistant Grade-II fell vacant in the year 1995, the Petitioner was promoted against the said post on 22.1.1996 against the scheduled caste quota.

4. It has been argued by Mrs. Malhotra that in the seniority lists issued earlier, there was no column for mentioning the caste. She also states that her client had informed the Respondents that he belongs to the scheduled caste category and the Respondents lost the said record. The claim of the Petitioner is totally based on the ground that he belongs to the scheduled caste category. S/Sh. Surjan Singh: 3: and Kuldeep Singh were appointed in the month of March, 1977, whereas the Petitioner admittedly was first appointed in the year 1982 on adhoc basis and 20.11.1984 on regular basis. In the tentative list of Agriculture Sub Inspectors as it stood on 1.1.1986, Petitioner was at Sr. No. 39, whereas private Respondents were at Sr. No. 32 and 33 respectively. Similarly in the seniority list of 1.3.1989 the Petitioner is at Sr. No. 26, whereas private Respondents were at Sr. No. 20 and 21 respectively.

5. I have heard learned Counsel for the parties and have carefully gone through the record of the case. I find that prior to 1993 there is not an iota of evidence to show that the Petitioner had ever informed the University that he belongs to the scheduled caste category. His assertion that he had supplied such a certificate which may have been lost by the University does not appear to be correct. The private Respondents were promoted in the year 1990-1991 and the first representation by the Petitioner was made only in the year 1993 and there also he did not append any certificate and only in the year 1995 he appended his certificate.

6. The University in its reply has clearly stated that it came to know about the fact that the Petitioner belonged to the scheduled caste category only in the year 1993 and thereafter he was promoted against the first vacancy which occurred on 22.1.1996.

7. Mrs. Malhotra has strenuously argued that the Petitioner could not have made a representation till his seniority was decided. This argument has no force, since the only representation made by the Petitioner was that his date of appointment be shown as 20.11.1984 instead of 28.11.1984 . This did not change his seniority vis-a-vis the private Respondents.

8. It was the duty of the Petitioner to have informed his employer that he belongs to the scheduled caste category and should be considered against such quota. Since he has not done this, there is no merit in the petition which is accordingly dismissed. No costs.