
(2011) 10 SHI CK 0078
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 6449 of 2010

Joginder Singh

APPELLANT

Vs

State of Himachal Pradesh and others

RESPONDENT

Date of Decision : 24-10-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2011) 10 SHI CK 0078

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma, Judge

1. Petitioner has assailed the appointment of respondent No. 4 to the post of Part Time Water Carrier in Government Primary School, Kherian, Tehsil Nurpur, District Kangra vide Annexure P-7, dated 31.03.2010.

2. Mr. T.S. Chauhan, learned counsel for the petitioner has strenuously argued that the appointment of respondent No. 4 to the post of Part Time Water Carrier in Government Primary School, Kherian, Tehsil Nurpur, District Kangra is illegal, arbitrary and thus, violative of Articles 14 and 16 of the Constitution of India. According to him, the petitioner was more deserving taking into consideration his 50% disability vis-?-vis respondent No. 4, who has disability of 40%. He also argued that his client's son also suffers from 75% disability.

3. Mr. Vikas Rathore, learned Deputy Advocate General and Mr. Ambesh Sharma, learned vice counsel for respondent No. 4 have supported the appointment of respondent No. 4 to the post in question.

4. I have heard the learned counsel for the parties and gone through the pleadings carefully.

5. The process has been initiated by the respondent-State for filling up the post

of Part Time Water Carrier in Government Primary School, Kherian, Tehsil Nurpur, District Kangra under Clause-12 of the Scheme. Petitioner has submitted an application for considering his candidature to the post of Part Time Water Carrier. However, the candidature of respondent No. 4 was being considered before the petitioner, as per the averments contained in the reply. Petitioner suffers from 50% disability as per Annexure P-2, dated 23.06.2001. The disability of respondent No. 4 is 40%. The disability of respondent No. 4 has been assessed by a duly constituted Medical Board. The income of the petitioner is Rs. 11,000/- per annum, as per Annexure P-3 and the income of respondent No. 4 is 9,000/- as per Annexure R-4/6. In sequel to the directions issued by this Court vide order dated 07.09.2011, the income of the petitioner's family was re-assessed through the agency of S.D.M., Nurpur, District Kangra. The S.D.M., Nurpur, District Kangra has looked into the matter and furnished the report. The same was opened in the presence of the parties. According to the report, the income of the petitioner has rightly been assessed as per Annexure P-3, i.e., amounting Rs. 11,000/- per annum. The income of respondent No. 4 amounting Rs. 9,000/- has also been held to be correct as per Annexure R-4/6. However, fact of the matter is that the petitioner is also running a Maniyari shop and has taken a loan of Rs. 50,000/- from the Himachal Pradesh Gramin Bank, Bhadwar Branch on 03.09.2009. Petitioner's wife has also raised a loan of Rs. One lac on 19.02.2010 from Kangra Central Cooperative Bank, Branch Bhadwar. Thus, the petitioner and his wife have raised loan amounting Rs. 1, 50,000/- (rupees one lac and fifty thousand only) in total and a judicial notice can be taken that the petitioner and his wife would be re-paying the installments. Though the petitioner is living separately from his father, but his father owns land measuring 1-18-26 hecets. Petitioner is more affluent vis-a-vis respondent No. 4, who also has disability to the extent of 40% and belongs to a B.P.L. family. As per Annexure R-4/4, he also belongs to scheduled tribe category. Petitioner has not given his educational qualification and the respondent No. 4 is matriculate as per Annexure R-4/2. Respondent No. 4 had already joined his duties on 07.04.2010 as a Part Time Water Carrier in Government Primary School, Kherian, Tehsil Nurpur, District, Kangra.

6. Accordingly, in view of the observations and discussions made hereinabove, there is no merit in this petition and the same is dismissed. No costs.