

(2010) 10 SHI CK 0144
In the High Court Of Himachal Pradesh
Case No : CWP No. 2053 of 2009

Kalag Ram Mehta and Others

APPELLANT

Vs

State of H.P. and Another

RESPONDENT

Date of Decision : 26-10-2010

Acts Referred:

Citation : (2010) 10 SHI CK 0144

Hon'ble Judges : Kurian Joseph, C.J.;Kuldip Singh, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The writ petition is filed mainly with the following prayer:

a) That a writ of mandamus may kindly be issued to the respondents to grant the pay scale and other allowances at par with the other government employees of the H.P., to the petitioners w.e.f. the date of their absorption/appointment with all the benefits incidental thereof such as arrears etc.

2. In the reply at para 1, it is stated as follows:

1. That the Indian Red Cross Society, Himachal Pradesh State Branch was running an institute viz. Bal Grih, Dhalli, Shimla. During the Annual General Meeting of the Indian Red Cross Society, Himachal Pradesh State Branch held on 15th December, 2005 under the chairmanship of the His Excellency Governor, Himachal Pradesh, the Chief Minister of Himachal Pradesh-cum- President, State Management Committee (Red Cross), on the issue of increase in monthly salary of staff posted in Bal Grih, Dhalli, it was decided that all the inmates of Bal Grih, Dhalli may be admitted in Tutikandi, Masli Ashram of Shimla District and in Kinnaur Ashram and five employees (hereinafter called petitioners) who were working in this institution may be adjusted in various similar Ashrams/ Institutions run in the State against vacant posts. In view of this decision, Stage Government took the decision on 4.9.2006 to adjust the staff of bal Grih, Dhalli in the departmental Ashrams. Accordingly, the respondent No. 2 issued orders on 12.1.2007 annexed as P-1 where it has been clearly mentioned that taken over

staff of Bal Grih, Dhalli run by the Indian Red Cross Society will be given fixed salary, will be placed on junior rank to the departmental employees in their respective cadre and will be governed in accordance with the Rules/regulations of State Government employee of similar categories. It is pertinent to mention here that the petitioners have been posted in different Ashrams which are being run in accordance with the norms of the schemes viz Mukhya Mantri Bal Udhar Yojna notified by the State Government vide notification No. SJE-F(2)-1/2005 dated 28.9.2006. A copy of the scheme is annexed as R-1. As per annexure-C of the scheme staff to be posted in various Ashrams has to be paid fixed salary. Needless to say that the petitioners were receiving meager fixed salary when working under the control of Indian Red Cross Society...

3. According to the petitioners, once they have become government employees, they are to be governed by the service conditions of government employees of similar categories. Learned Addl. Advocate General submits that the employees were taken over on fixed salary. Learned Counsel for the petitioners submit that the terms and conditions relating to the service of the staff, thus taken over including the petitioners are that:

1. They will be paid fixed salary as prescribed by the Govt. from time to time.
2. The above employees will be governed in accordance with the same Rules/Regulations and other service conditions which are applicable to similar categories of Government employees.
3. The employees of the Ashram will rank junior to the departmental employees in their respective cadre from the date of their joining in the department. The period of service rendered by the above employees previously with their respective organization will not be counted for the purpose of seniority.
4. It is submitted that in the case of similarly situated categories of employees, they are paid regular pay scale whereas the petitioners are discriminated. It is also submitted that some of the employees who have been taken over have been put on scale where their services have been taken over in similar circumstances, but the petitioners are discriminated.
5. The petitioners may point out all these aspects by way of an appropriate representation before the first respondent, in which case, the first respondent will look into the matter and take appropriate action in accordance with law and justice within another four months. In case, any of the petitioners seeks an opportunity of hearing, the same shall also be granted.
6. The Writ Petition is disposed of, so also the pending application(s), if any.