

(2012) 03 SHI CK 0013
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 12951 of 2008

Kamal Krishan

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 05-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0013

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Advocate : Bimal Gupta, for the Appellant; Rajinder Dogra, Additional Advocate General with Mr. Vikas Rathore, D.A.G. for No. 1 to 3, Mr. Adarsh Sharma, Advocate For respondent No. 5 and Respondent No. 4 is ex -parte, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sharma, Judge

1. Petitioner has assailed the appointment of respondent No. 5 to the post of Part Time Water Carrier in Government Primary School, Gawas. According to the petitioner, he is physically handicapped and has submitted an application to the Hon"ble Chief Minister for considering his candidature for the post of Part Time Water Carrier on 10.11.2004. However, the respondents No. 1 to 4 have offered appointment to respondent No. 5. Mr. Bimal Gupta, learned counsel for the petitioner has strenuously argued that once the petitioner has submitted an application for considering his candidature to the post of Part Time Water Carrier, the same ought to have been taken to its logical end. He further argued that the petitioner was more deserving candidate to be appointed as Part Time Water Carrier.

2. Mr. Rajinder Dogra, learned Additional Advocate General and Mr. Adarsh Sharma, learned counsel for respondent No. 5 have strenuously argued that respondent No. 5 is also handicapped and his appointment has been made under

Rule-12 of the scheme.

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

4. Respondent No. 5 was also directed to file the supplementary affidavit. The same has been filed by him on 9th August, 2011. Petitioner's mother was President of Gram Panchayat, Gawas between 2000 to 2005. According to Rule 137 of the Himachal Pradesh Panchayati Raj Rules, 1997, the petitioner could not be appointed as Part Time Water Carrier in the same Gram Panchayat. He should not have even submitted an application for considering his candidature in view of Rule-137 of the Himachal Pradesh Panchayati Raj Rules. Respondent No. 5 has been found suitable and offered appointment to the post of Part Time Water Carrier on 30.12.2005, pursuant to which he had already joined his duties.

5. Mr. Bimal Gupta, learned counsel for the petitioner has also alternatively argued that his client was adopted by Smt. Surtoo Devi. However, no adoption deed has been placed on record. The petitioner cannot get the advantage of Parivar register. Correction is to be carried out in the Parivar register as per Rule-21 of the Himachal Pradesh Panchayati Raj (General) Rules, 1997. Respondent No. 5 has been offered appointment on 30.12.2005. It can safely be presumed that the process has been initiated at least six months before the appointment of respondent No. 5. The copy of Parivar register placed on record by the petitioner has been issued by the competent authority on 08.11.2005. Respondent No. 5 is also a handicapped person. There is no tangible evidence placed on record by the petitioner that respondent No. 1 has forwarded the application to respondent No. 3. Accordingly, in view of the observations and discussions made hereinabove, there is no merit in this petition and the same is dismissed, so also the pending application(s), if any. No costs.