

(2011) 09 SHI CK 0333
In the High Court Of Himachal Pradesh
Case No : CWP No. 3552 of 2011

Karan Singh

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 08-09-2011

Acts Referred:

Citation : (2011) 09 SHI CK 0333

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sanjay Karol, J.—Petitioner has prayed for the following reliefs:

- (i) That the entire record pertaining to the present case, may kindly be summoned.
- (ii) That the action of the Respondents in fixing the cut off date as 24.2.2011 may kindly be declared as illegal and arbitrary and letter dated 25.3.2011 Annexure P-4 may kindly be quashed.
- (iii) That the Respondents may kindly be directed to consider the case of the Petitioner for appointment as Sub Inspector, H.P. Police, on the basis of selection made by the Selection Committee.
- (iv) Any other appropriate writ, order or direction which this Hon''ble Court may deem fit, just and proper in the facts and circumstances of the present case, may be passed, in the interest of justice and fair play.

2. Annexure P-4 reads as under:

OFFICE OF THE DIRECTOR GENERAL OF POLICE HIMACHAL PRADESH POLICE
HEADQUARTERS SHIMLA ? 174002

To

The Secretary, State Selection Committee-cum- Sub Regional Employment Officer, Ex-Serviceman Cell Hamirpur, H.P.

No. P.II(3) Rec. (S1)/2011

Dated:25.3.2011

Subject: Nomination of Ex-Serviceman against the post of Sub-Inspector on regular basis in the pay scale of Rs. 10300-34800+3600 Grade Pay reserved for Ex-servicemen.

Sir,

Kindly refer to your letter No. DSW Emp. Ex-cell 4/76 dated 09-03-2011, on the subject cited above.

2. In this connection, it is intimated that the cut off date for calculation of upper and lower age limit for appointment as Sub Inspector of Police against reserved post may be considered as 24.02.2011 i.e. the date on which the requisition has been placed upon the Ex-serviceman Cell Hamirpur, Distt. Hamirpur, H.P.

Yours faithfully, For Director General of Police Himachal Pradesh, Shimla.

3. Facts are not in dispute. Petitioner has retired from the armed forces on 30.1.2007. Petitioner's name stands registered as Ex-Serviceman with the authorities. As such he is eligible for employment with the State for the posts reserved for Ex-servicemen.

4. In the year 2008 Respondents No. 1 and 2 took decision of filling up 65 posts of Sub-Inspectors of Police in the pay scale of Rs. 10300 - 34800. The posts were to be filled up after fully complying with the procedure prescribed under the Rules. Out of 65 posts, nine posts were reserved for Ex-servicemen as per the reservation roster. Such posts were to be filled up by Respondents No. 3 and 4, for which purpose requisition was to be sent by Respondent No. 2. Record does not reveal as to why steps for filling up these posts were not taken by Respondent No. 2 between the years 2008 - 2011. Undisputedly, all other posts, except the one reserved for Ex-servicemen were filled up before December, 2010. According to the Petitioner he was fully eligible for being considered for appointment to the post of Sub Inspector even up till 30.1.2011. It was only in terms of letter dated 24.2.2011 (Annexure P-3) requisition for filling up these nine posts was sent by Respondent No. 2 to Respondent No. 4. This letter categorically refers to the decision taken by the State Government to fill up all 65 posts taken in the year 2008 itself. As such, Respondent No. 3 was required to send names of persons eligible as on the date when the Government took decision to fill up the posts or at best the date on which effective steps for filling up the remaining posts were taken by Respondent No. 2. As already noticed herein above, there is nothing on record to justify delay in filling up the posts in question between the year 2008 and 2010. Further it was only by way of a subsequent letter dated 25.3.2011 (Annexure P-4), that it was clarified that the

date of eligibility with respect to the age is to be considered is 24.2.2011. There is no rationality in fixing such date. Simply because requisition was sent on the said date, that fact by itself would not be a factor determining the cut off date with respect to the eligibility criteria. Rules are absolutely silent on this aspect. The Government itself had taken decision to fill up the posts in the year 2008. Since effective steps for filling up the remaining posts were actually taken by Respondent No. 2 in the year 2008-09 itself, there was no justification for Respondent No. 2 to have fixed the cut off date of eligibility for these nine reserved posts to be 24.2.2011. In this background Annexure P-4 needs to be quashed. Ordered accordingly.

5. As such Respondent No. 2 shall consider the Petitioner's case for appointment as a Sub Inspector in the Himachal Pradesh Police Force for the nine posts reserved for Ex-servicemen category. It is stated at the bar that Petitioner's name already stands recommended by Respondent No. 3 to Respondent No. 2. As such entire process of selection, by considering the Petitioner's case shall be completed in accordance with law, within a period of one month from today.

6. With the aforesaid observations, present petition is allowed. Pending applications, if any, also stands disposed of.