

(2010) 10 SHI CK 0076
In the High Court Of Himachal Pradesh
Case No : COPC (T) No. 87 of 2008

Kuntal Mahajan and Others

APPELLANT

Vs

S.K. Dash and Another

RESPONDENT

Date of Decision : 04-10-2010

Acts Referred:

Citation : (2010) 10 SHI CK 0076

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

Bench : Division Bench

Final Decision : Dismissed

Judgement

Kurian Joseph, C.J.—The complaint is regarding non-implementation of order passed by the erstwhile Tribunal on 21.9.2004. In the reply at paragraph 1, it is stated as follows:

Para 1. Admitted to the extent that the department of Ayurveda had sent requisition for filling up the five vacant posts of Laboratory Attendant to the H.P. Subordinate Selection Board Hamirpur on dated 23-2-2000. But the Government has issued instructions to all the department of the Respondent State on dated 4-5-2000. The operational part of the case instructions read that, "in order to streamline the system, ensure that details of the post created, officials in position and salary burden are known and that already available surplus is adjusted against a vacant post or fresh post. It is essential that even in respect of functional post concurrence on creation and filling up of posts is obtained invariably from the Finance Department in all cases in future, these instructions may be complied with strictly." The Subordinate Service Selection Board Hamirpur submitted the recommendation of 5 candidates along with the applicants/Petitioner, when the instructions issued by the government had become operational. Due to these instructions the department could not issue the appointment orders to the applicants/Petitioners along with others. Therefore, the department had made request to the Finance Department for obtaining necessary relaxations as required under the instructions referred to

supra. The Finance department did not accept the request of the department of Ayurveda. Thereafter, on the request of the Respondent No. 2, this matter has been again referred to F.D. to accord necessary relaxation, which has been, stated in reply affidavit of OA No. (D) 29/2003, but still the case is pending in the F.D. for their concurrence. Hence, the dis-obedience of the orders passed by the Honourable Tribunal dated 21-9-2004 neither deliberate nor intentional.

2. From the reply, it is seen that the matter was in consideration of the government and there was no willful or deliberate dis-obedience on the part of the Respondents in non-implementing the orders. Therefore, this COPC is dismissed without prejudice to liberty of the Petitioners to pursue their grievance, if any, in appropriate proceedings.