

(2011) 05 SHI CK 0020
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 10040 of 2008

Man Singh

APPELLANT

Vs

Himachal Road Transport Corporation and Another

RESPONDENT

Date of Decision : 11-05-2011

Acts Referred:

Citation : (2011) 05 SHI CK 0020

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Judgement

V.K. Sharma, J.—Notice was issued to the Petitioner on his official address as mentioned in the petition and it was reported that he has since retired from the service of the Respondent-Corporation and his permanent residential address was also given by the employer, which has been received back with the report that no such person resides at the given address.

2. The petition has been filed on the following prayer vide para 7(i) and (ii):

(i) That the impugned order Annexure A-1 vide which the case of the applicant was rejected may kindly be declared as null & void, illegal, arbitrary and the anomaly between the salaries of applicant and Prem Singh be removed by passing the appropriate orders to this effect.

(ii) That the pay of the applicant be refixed and his pay be fixed higher to the juniors namely Sh. Prem Singh.

3. In reply, the Respondents have taken the following stand vide paras 3 and 7:

3. That the contents of this para of the application are admitted to the extent that the applicant joined the services on 2.10.1974 and his salary is less than Shri Prem Singh Carpenter. The applicant represented his case with D.M., H.R.T.C, Mandi and the same was rejected. Rest of the contents of this para are wrong, false, incorrect and hence denied. In fact the applicant and Shri Prem Singh Carpenter joined the services of the Respondent on 2.10.1974. It is worth

while to add here that as per the instructions of the H.P. Government contained in O.M. No. Fin (PR)17/90 dated 17.8.90 provides that the pay of the senior cannot be stepped up, if the senior fails to make a representation within four months from the date of arising anomaly in pay.

7. That the relief sought by the applicant in these paras is wrong, false, incorrect and hence denied. The applicant is not entitled to any relief as claimed. It is worthwhile to add here that both the applicant and Prem Singh were appointed as carpenters with the Respondents w.e.f. 2.10.1974. Shri Prem Singh was allowed proficiency step-up after completion of 8/18 years of service w.e.f. 1.10.86 and 2.10.92 respectively as his work and conduct was found satisfactory. On the other hand the service record and work and conduct of Shri Man Singh was not satisfactory and was facing disciplinary proceedings during October, 1986 and 1992 and as such he was not allowed proficiency step-up after completion of 8/18 years of service. He was allowed the same on the restoration of penalties. The rate of increments prior to 31.12.1992 was less than that of March 1993 due to the revision of master scale and only due to this the salary of the applicant is less than Prem Singh.

4. In the facts and circumstances of the case, the petition is disposed of with a direction to the Respondents/competent authority to consider the case of the Petitioner and take a final decision in the matter within three months from today in the light of the judgment of the Hon''ble Supreme Court in Er. Gurcharan Singh Grewal and Another Vs. Punjab State Electricity Board and Others, wherein it has been held as under vide para 17 of the report:

Something may be said with regard to Mr. Chhabra's submissions about the difference in increment in the scales which the Appellant No. 1 and Shri Shori are placed, but the same is still contrary to the settled principle of law that a senior cannot be paid lesser salary than his junior. In such circumstances, even if, there was a difference in the incremental benefits in the scale given to the Appellant No. 1 and the scale given to Shri Shori, such anomaly should not have been allowed to continue and ought to have been rectified so that the pay of the Appellant No. 1 was also stepped up to that of Shri Shori, as appears to have been done in the case of the Appellant No. 2.

5. Let a copy of this judgment be made available to the Respondents through Mr. Adarsh Sharma, Advocate, learned Counsel for the Respondents, dasti.

6. The petition as also pending CMP(s), if any, stand disposed of in the above terms.