
(2011) 05 SHI CK 0147
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 16724 of 2008

Manmohan Singh

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 04-05-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2011) 05 SHI CK 0147

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Judgement

Deepak Gupta, J.—By means of this petition, the Petitioner has laid challenge to the order Annexure A-3 whereby his services have been retrenched and has further prayed that the State of Himachal Pradesh be directed to appoint him to any class-IV post.

2. Briefly stated, the facts of the case are that the Petitioner worked as a helper in the Central Cooperative Consumer Store, Shimla. He joined on 26.4.1985. His services were regularized as Class-IV employee on 3.1.1994. Unfortunately, the Central Cooperative Consumer Store was placed under liquidation. Thereafter, a proposal was sent to the Managing Director of the H.P. State Cooperative Consumer Federation Ltd. (HIMFED) to take over the services of the Consumer Store. For some time, Respondent No. 4 ran the store and initially deployed 21 employees. Finally the services of the Petitioner were terminated on 29.4.1995 and according to the Petitioner the provisions of Section 25-F of the Industrial Disputes Act were violated.

3. Thereafter, a number of employees of the Consumer Store filed writ petitions and this Court passed orders from time to time requesting the State to adjust the Petitioners. Later the petitions were dismissed on 12.3.1997 with liberty reserved to the Petitioners to approach the Tribunal.

4. The Respondents State created some posts of Class-IV employees where

surplus staff of the Cooperative Institutions was first to be adjusted on priority basis. The Petitioner claims that whereas others have been adjusted he has still not been adjusted.

5. This Court in CWP No. 640 of 2001 titled as State of H.P. v. Roshan Lal Chauhan and Ors. decided on 6.8.2008 held that no direction can be issued to the State to grant employment to persons who were retrenched from Consumer Societies since they were not employees of Government Undertakings. Relevant portion of the judgment reads as follows:

...Be that as it may, the fact remains that the learned Tribunal could not have issued any directions to the State to grant employment to persons who were being retrenched from the Consumer Societies since they were not employees of the Government or Government undertakings. They were the employees of Societies registered under the Cooperative Societies Act. If such societies are liquidated, the employee may suffer a hardship but this does not mean that the Court has jurisdiction to issue directions to the State that all the employees should be given employment. In fact, the Apex Court finally gave no such direction.

6. The case of the Petitioner is solely covered by the aforesaid decision. The Petitioner has also claimed that two other persons similarly situated who had filed O.As were granted appointment. The stand of the State is that the Petitioner and three other persons filed two separate O.As before the Tribunal and in O.A. No. 758 of 1997 the three Petitioners other than the present Petitioner filed an application that they be called for interview for direct recruitment of Class-IV posts. The Tribunal issued directions directing the State to call them for the interview. Out of these three persons, two persons were selected on the basis of merit and fulfillment of requisite qualifications. The applicant at that stage never made an application before the Tribunal that he be also called for interview. Therefore, I find that the case of the Petitioner is totally different.

7. In view of the above discussion, I find no merit in the petition which is accordingly rejected. No costs.