
(2010) 12 SHI CK 0473
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 9866 of 2008

Manohar Lal

APPELLANT

Vs

The Managing Director, H.P. State Forest Corporation and
Others

RESPONDENT

Date of Decision : 14-12-2010

Acts Referred:

Citation : (2010) 12 SHI CK 0473

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—Petitioner was appointed on daily wage basis as Timber Watcher w.e.f. 03.01.1986. F.I.R. bearing No. 12 of 1992, dated 16.03.1992 was registered against the Petitioner and two other persons, namely, Tarsem Singh and Biru Ram. The challan was put up. He was acquitted by the learned Chief Judicial Magistrate, Una vide judgment dated 6th September, 2001. Since the Petitioner has already completed more than 10 years service, his case was required to be considered for regularization. However, case of the Petitioner was not considered due to the pendency of a criminal case bearing No. 160-II/94/95. The Petitioner after his exoneration was considered for regularization to the post of Timber Watcher and was regularized vide letter dated 18th December, 2001. It appears that the Petitioner has made a representation that he should have been considered for regularization from back date. Consequently, vide Annexure A-5, dated 12th September, 2003, the Petitioner was regularized w.e.f. 01.01.1998 instead of 29.12.2001 in the pay scale of Rs. 2520/- on notional basis. Case of the Petitioner was not considered only due to the pendency of criminal case, which was pending before the Chief Judicial Magistrate, Una. However, once the Petitioner has been exonerated, he was to be regularized from the date his juniors were regularized, with all monetary benefits, i.e., 01.01.1998.

2. Mr. Bhupender Thakur, learned Counsel for the Respondents has vehemently

argued that since the Petitioner has not worked against the aforesaid post, he was not entitled for monetary benefits. This plea cannot be accepted. The Petitioner was always ready and willing to perform the duties against the higher post. However, it was due to the pendency of criminal case.

3. Their Lordships of the Hon^{ble} Supreme Court in Union of India Vs. K.V. Jankiraman, etc. etc., have held as under:

We are not much impressed by the contentions advanced on behalf of the authorities. The normal rule of "no work no pay" is not applicable to cases such as the present one where the employee although he is willing to work is kept away from work by the authorities for no fault of his. This is not a case where the employee remains away from work for his own reasons, although the work - 3 is offered to him. It is for this reason that F.R. 17(1) will also be inapplicable to such cases.

4. Consequently, the petition is allowed. Annexure A-5, dated 12.09.2003 is modified, only to the extent that the Petitioner shall be entitled to all the monetary benefits w.e.f. 01.01.1998. No costs.