
(2011) 04 SHI CK 0256
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 14867 of 2008

Mansa Ram

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 01-04-2011

Acts Referred:

Citation : (2011) 04 SHI CK 0256

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—Petitioner was engaged on daily wage basis in the month of October, 1993 in the Respondent-Department. Name of the Petitioner was recommended by the Screening Committee on 7.1.2006 for the purpose of regularization. Petitioner was found suitable as per letter dated 14.11.2006 (Annexure R-2). His name figured at Sr. No. 35. However, the fact of the matter is that Respondent-Department instead of regularizing the Petitioner on the basis of recommendations of the Screening Committee dated 7.1.2006, retired him after the age of 60 years.

2. Mr. Ashwani Pathak has strenuously argued that in fact his client was entitled to be conferred with work charge status immediately after the completion of 10 years continuous service as per law laid down by the Hon"ble Apex Court in Mool Raj Upadhyaya Vs. State of H.P. and Others, He then argued that his client has only attained the age of 58 years at the time when his case was considered for regularization by the Screening Committee on 7.1.2006.

3. Mr. Anshul Bansal, learned Addl. Advocate General has vehemently argued that since the Petitioner had attained the age of 60 years, he could not be regularized.

4. I have heard the learned Counsel for the parties and have perused the record carefully.

5. It is not in dispute that the Petitioner has completed 10 years continuous service with 240 days in each calendar year upto 2003. His case, in fact, was required to be considered for conferment of work charge status as per Mool Raj Upadhaya v. The State of Himachal Pradesh and Ors. 1994 Supp (2) SCC 316 immediately after the completion of 10 years" service since he had completed 240 days in each calendar year upto 31.12.2003. His case was recommended by the Screening Committee on 7.1.2006 and the sanction was also conveyed by the Government on 14.11.2006. However, strangely enough, Respondents have not regularized the Petitioner only on the pretext that he had completed 58 years of age. It is also admitted fact that the Petitioner had been permitted to work till he attained the age of 60 years. In this view of the matter, Petitioner was required to be regularized before his retirement.

6. In view of the observations and discussions made hereinabove, the petition is allowed. Respondents are directed to consider the case of the Petitioner for conferment of work charge status immediately after completion of 10 years service with effect from October, 1993, as per the law laid down by their Lordships of the Hon''ble Supreme Court in Mool Raj Upadhaya v. The State of Himachal Pradesh and Ors. 1994 Supp (2) SCC 316 with all the consequential benefits. Needful be done within a period of two months from the date of production of certified copy of this judgment by the Petitioner. No costs.