
(2010) 12 SHI CK 0137
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 7221 of 2008

Mast Ram

APPELLANT

Vs

Vice Chancellor, H.P. K.V.V, and Others

RESPONDENT

Date of Decision : 13-12-2010

Acts Referred:

Citation : (2010) 12 SHI CK 0137

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

Bench : Single Bench

Judgement

V.K. Sharma, J.—The petition has been filed on the following prayers vide para 7 (i) and (ii):

(i) That the withdrawal of the applicant as Junior Technician with effect from February 2000 vide Annexure - A/3 may be declared as inoperative, void abinitio and illegal with all consequential benefits including arrears and pay.

(ii) That the Respondents may please be directed to withdraw order dated 5th April, 1999.

2. In reply, the Respondent-University has taken the following stand vide para 3:

The applicant joined the Respondent University as daily paid labourer w.e.f. 2.3.1983. Thereafter, the applicant was engaged as Fitter on daily paid basis w.e.f. 21.8.1989. But in the year 1995 the Govt. of Himachal Pradesh framed a policy to regularize all those daily paid who had completed 10 years service with 240 days in each calendar year. The same policy was also followed in the Respondent university and consequently the applicant alongwith university and consequently the applicant alongwith others was regularized as Beldar as is evident from serial No. 24 of office order No. 9-917/95-HPKV(Estt.)/79689-747 dated 26.12.1995 (copy annexed with the original application as A-I). That thereafter, the applicant in connivance with some officials of the Respondent university forwarded false information to the administration that he has

completed 10 years as fitter on daily paid basis, and thus got an office order No. 9-917/95- HPKV(Estt.)/Vol.III-91427-52 dated 31.12.1998 regularizing him as Junior Technician (Fitter G.II) issued Annexure A-2. But following some complaints from his senior a detailed checking of the Muster-Rolls were made and it was found that the applicant had not completed 10 years as Fitter on daily paid basis because he had worked as daily paid labourer initially. As such disciplinary action has been taken against Executive Engineer, Assistant Engineer and the Junior Assistant who had furnished false documents of the applicant, while the regularization order of the applicant as Jr. Technician (Fitter G-II) was withdrawn vide office order No. 9-917/95-HPKV (Estt.) Vol.III/91427-52 dated 5.4.1999 (copy annexed as Annexure A-3). Hence the action of the Respondent university as valid.

3. Admittedly, services of the Petitioner were regularized as Jr. Technician (Fitter G-II) vide office order dated 31st December, 1998, which was later on unilaterally withdrawn vide office order dated 5.4.1999, Annexure A-3 without giving an opportunity of being heard to the Petitioner or holding any enquiry against him. Thus, the impugned order dated 5.4.1999, Annexure A-3 which does not disclose any reason, whatsoever, as to why the earlier order of regularization issued vide office order dated 31.12.1998 Annexure P-2 was withdrawn is on the face of it in derogation to the principles of natural justice and thus, cannot be sustained and is liable to be quashed on this score alone.

4. In view of the above, office order dated 5.4.1999 Annexure A-3 is quashed. However, the Respondent-University shall be at liberty to proceed in the matter afresh in accordance with law and justice, if so, advised.

5. In view of the above, the petition stands disposed of, so also the pending CMP(s), if any.