
(2023) 07 SHI CK 0033
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 1998 Of 2020

Mohan Prakash

APPELLANT

Vs

State Of H.P. And Another

RESPONDENT

Date of Decision : 04-07-2023

Acts Referred:

Citation : (2023) 07 SHI CK 0033

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Jiya Lal Bhardwaj, Dhanwanti, Anup Rattan, Y.P.S. Dhaulta, Rupinder Singh Thakur

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. Pursuant to an advertisement issued by the respondent - Department on 26.09.2007, the petitioner was appointed as Clerk on contract basis vide order dated 30.06.2008. The said appointment was against a post meant for physically handicapped category. Petitioner's representation to regularize his services with effect from the date of his initial joining under 3% quota for differently abled persons under the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 was rejected by the respondents on 20.03.2020. Aggrieved, the petitioner has instituted this writ petition seeking quashing of the orders, whereby his representations were rejected with a further direction to the respondents to regularize his services as Clerk on regular basis w.e.f. 30.06.2008 instead of 12.09.2014, i.e. the date when petitioner's services were actually regularized.

2. Heard learned counsel on both sides.

3. Learned Senior Counsel for the petitioner submitted that the issue raised by the petitioner and the relief claimed by him in the instant petition has already been adjudicated upon in CWPOA No.1462 of 2020 (Kulwant Singh Versus State

of Himachal Pradesh and others) . The said case pertains to an employee of the respondent Department itself, who was appointed against the post meant for physically handicapped category. The petitioner in that case, namely Sh. Kulwant Singh, had also claimed regularization of his services right from the date of his first appointment on contract basis. Placing reliance upon a judgment dated 22.08.2022, rendered in CWPOA No.1077 of 2019 (Nitin Kumar Versus State of Himachal Pradesh and another), the relief prayed for was allowed to the petitioner therein. The respondents were directed to treat the appointment of the petitioner as regular with effect from the initial date of his contract appointment against the post of Clerk. The operative part of the judgment rendered in Kulwant Singh's case, supra, reads as under:-

"6. Having heard learned Counsel for the petitioner as also learned Additional Advocate General, as there is no dispute that the present issue is covered by the judgment being relied upon by learned Counsel for the petitioner, therefore, this petition is disposed of with the direction that the respondents are directed to treat the appointment of the petitioner from the initial date of his appointment, i.e. 29th February, 2008, against the post of Clerk on regular basis, with all consequential benefits. It is made clear this direction has been passed by the Court taking into consideration the fact that though the appointment of the petitioner initially was on contract basis but he stood appointed against 3% backlog of the posts reserved for differently-abled persons under the 1995 Act."

Learned Senior Counsel for the petitioner also submitted that the above judgment has been implemented by the respondents by passing an office order on 30.06.2023. In terms of this office order, Sh. Kulwant Singh (petitioner in CWPOA No.1462 of 2020) is now being treated as having been appointed on regular basis from the date of his initial appointment on contract basis with all consequential benefits.

4. It is not in dispute that the judgment in Kulwant Singh's case, supra, which in turn, is based upon the judgment in Nitin Kumar's case, supra, covers the issue raised and the reliefs prayed for in the instant petition as well. The respondents have accepted the verdict in Kulwant Singh's case, supra and have also implemented the same.

5. In the aforesaid admitted background of facts and law, this writ petition deserves to be allowed. The same is accordingly allowed. The respondents are directed to treat the petitioner having been regularly appointed from the date of his first appointment on contract basis, i.e. 30. 06.2008, against the post of Clerk with all consequential benefits. The needful be done by the respondents within eight weeks from today.

The writ petition stands disposed of in the above terms, so also the pending miscellaneous application(s), if any.