

(2016) 04 SHI CK 0194
In the High Court Of Himachal Pradesh
Case No : LPA No. 55 of 2015

Municipal Corporation, Shimla

APPELLANT

Vs

Ramesh Chand Thakur

RESPONDENT

Date of Decision : 07-04-2016

Acts Referred:

Citation : (2016) ILRHP 932

Hon'ble Judges : Mansoor Ahmad Mir, CJ. and P.S. Rana, J.

Bench : Division Bench

Advocate : Mr. Hamender Chandel, Advocate, for the Appellant; Ms. Ranjana Parmar, Senior Advocate, with Mr. Vivek Sharma, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Mansoor Ahmad Mir, C.J.(Oral)—This appeal is directed against the judgment, dated 18th September, 2014, passed in CWP No. 2521 of 2012, titled Ramesh Chand Thakur v. Municipal Corporation, whereby the writ petition filed by the petitioner (respondent herein) was allowed. The operative portion of the judgment is reproduced herein below:

".....Consequently, the submission made by the learned counsel for the respondent-corporation is rejected. It is ordered that in case on 31.03.2004 or earlier the petitioner has completed the requisite period of qualifying service, he is held accordingly entitled for regularisation subject to availability of a vacancy. Consequential benefits, if any, within the parameters as accruable shall be given to the petitioner within three months."

2. During the hearing of the case, the learned Senior Counsel appearing for the respondent/writ petitioner stated that similar writ petition was allowed by a learned Single Judge of this Court vide judgment, dated 31st July, 2014, passed in CWP No. 2415 of 2012, titled Mathu Ram v. Municipal Corporation and others, copy of which has already been placed on the writ record by the respondent/writ petitioner. The said judgment was the subject matter of the Letters Patent Appeal

(LPA No. 44 of 2015), which was also dismissed, vide judgment dated 13th October, 2015, and the judgment of the learned Single Judge was upheld. It is stated that the appellant-Corporation questioned the judgment of this Court passed in Letters Patent Appeal before the Apex Court by way of Special Leave Petition, which also stands dismissed. Thus, the judgment rendered by the learned Single Judge in Mathu Ram's case (supra) has attained finality.

3. Viewed thus, there is no illegality in the judgment impugned in the instant appeal and the same is upheld.

4. However, it is made clear that the payment of arrears is restricted for three years prior to filing of the writ petition, following the decisions of the Apex Court in *Jai Dev Gupta v. State of Himachal Pradesh* and another, reported in AIR 1998 SC 2819, *Union of India and others v. Tarsem Singh* reported in (2008) 8 SCC 648 and in *Asger Ibrahim Amin v. Life Insurance Corporation of India*, reported in JT 2015 (9) SC 329.

5. The Letters Patent Appeal stands disposed of accordingly.