
(2011) 11 SHI CK 0327
In the High Court Of Himachal Pradesh
Case No : CWPT No. 8817 of 2008

Narain Singh

APPELLANT

Vs

State of H.P. and others

RESPONDENT

Date of Decision : 29-11-2011

Acts Referred:

Citation : (2011) 11 SHI CK 0327

Hon'ble Judges : Surjit Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Surjit Singh, Judge

1. Heard and gone through the record.
2. Petitioner was working as Work Inspector in the year 1963 in Public Works Department of Himachal Pradesh, represented by the present respondents. He retired from service in the year 2004, without getting any promotion. Post of Work Inspector was re-designated as Technician and the Technicians were posted in three grades. Twenty percent persons, manning the cadre, were re-designated as Senior Technician Grade-I, thirty percent as Senior Technician Grade-II and the remaining as Technicians. These three-tier pay-scales were introduced pursuant to recommendations of 5th Pay Commission, which were implemented w.e.f. 1.1.1996. Petitioner was placed in the pay-scale of Senior Technician Grade-I w.e.f. 2002.
3. In the year 2002, probably after the petitioner was placed in the pay scale of Senior Technician Grade-I, he filed an Original Application before the then H.P. State Administrative Tribunal, seeking the benefit under the Assured Career Progression Scheme, notified vide Notification dated 15th December, 1998, copy available on record with the reply of the respondents, as the said benefit had been denied to him. According to the petitioner, other persons similarly situated were, however, given the benefit, under the said Scheme.

4. Respondents filed reply and took the plea that the benefits under the aforesaid Scheme were available only to those employees, who were eligible for promotion to the next higher post from the feeder cadre and since the petitioner did not possess the requisite qualification for promotion to the next higher post in the promotional channel, he had been denied the benefits.

5. Another plea raised by the respondents was that petitioner having been placed in the higher scale of Senior Technician Grade-I and having been re-designated as such, he was not entitled to the benefits under the Scheme, as per clarification received from the Engineer-in-Chief.

6. Aforesaid Tribunal, before which the Original application was filed, was abolished in the year 2008, and all the matters pending before it, came to this Court. So, the matter was registered as the present Writ Petition by the Registry of the Court.

7. It is not denied by the learned counsel for the petitioner that the petitioner did not possess the requisite qualification for promotion to the next higher post of Technician, which term included Senior Technician Grade-I also. If that is so, he is not entitled to the benefit under the Scheme, because para 4 of the Scheme, which pertains to eligibility and procedure for placement in higher scale/proficiency step-ups, clearly provides that those, who do not possess qualification for promotion to the next higher post, will not be eligible for the benefits.

8. As a matter of fact, petitioner had been granted benefit under the Scheme, but later on it was withdrawn, in view of clarificatory letter dated 19.2.2003, received from the Engineer-in-Chief, copy available on record with the reply of the respondents. As per this letter, those employees, who get the benefit of higher scale, under the three-tier pay-scales, are not eligible to the benefits under Assured Career Progression Scheme, in question.

9. In view of the above stated position, there is no merit in the present petition. The same is, therefore, dismissed. Petitioner has since retired. Therefore, it is ordered that in case he has been paid any amount of money, on account of the benefits, which were initially granted under the aforesaid Assured Career Progression Scheme, the same shall not be recovered, as the petitioner was, in no way, instrumental in the grant of said benefits to him.