

(2011) 11 SHI CK 0080
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 12 of 2008

Narinder Kumar

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 21-11-2011

Acts Referred:

Citation : (2011) 11 SHI CK 0080

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajiv Sharma, Judge

1. Since common questions of law and facts are involved in these petitions, the same were taken up together for hearing and are being disposed of by this common judgment. However, in order to maintain clarity, the facts of C.W.P. No. 12 of 2008 are being extensively taken into consideration:

C.W.P. No. 12 of 2008.

2. It is not in dispute that all the petitioners have approached this Court for the redressal of their grievances. The Division Bench of this Court has passed a detailed judgment in

C.W.P. No. 855 of 2007. The operative portion of the judgment dated 13th November, 2007 reads thus:

Keeping in view all the facts and circumstances of the case, we are of the considered view that it was the duty of the Screening Committee to assess the suitability of the petitioner. The Board of Governors had no right or authority to hold that the petitioner be superannuated at the age of 58 years without assessing his suitability. We accordingly set-aside the decision of the Board of Governors. The petitioner completes 58 years of age this month. Therefore, we direct that the Screening Committee shall assess the suitability of the petitioner

for continuation in service beyond 58 years upto 60 years as per established norms and if the petitioner is found so suitable he shall be continued in service till the age of 60 years. The Screening Committee may take its decision by 25th November, 2007. In case the Screening Committee does not decide the matter by the said date the petitioner shall be allowed to continue in service till the Screening Committee and consequently the Board of Governors take a decision in the matter.

3. Mr. Rajnish Maniktala, learned counsel for the petitioner has drawn the attention of the Court to office memorandum dated 12.11.2003 (Annexure P-10), whereby composition of Screening Committee has been provided in Sub para (ii) of paragraph No. 3 thereof. He has also drawn the attention of the Court to page No. 20 of the paper-book, whereby the constitution of the committee, which was constituted on 24.11.2007, has been given in tabular form. A bare perusal of the same makes it abundantly clear that on 24.11.2007, the Committee has not been constituted as per office memorandum dated 12.11.2003.

4. Mr. Sandeep Sharma, learned Assistant Solicitor General of India has strenuously argued that the committee could not be constituted on 24.11.2007 strictly as per office memorandum dated 12.11.2003 due to paucity of time. The contention cannot be accepted for the simple reason that if there was shortage of time, it was always open to the respondents to get the period enlarged.

5. Accordingly, in view of the observations and discussions made hereinabove, the petitions are allowed. The Committee constituted on 24.11.2007 and the recommendations made by it are set aside. Respondents are directed to re-constitute the Committee as per office memorandum dated 12.11.2003, within a period of four weeks from today and consider the case(s) of the petitioner(s) within a further period of four weeks thereafter. In case the petitioner(s) are found suitable, they shall be entitled to all the consequential benefits, as prayed for. The question, what age the petitioner(s) and similarly situate persons will retire, is kept open. The pending application(s), if any, also stands disposed of.