
(2011) 04 SHI CK 0352
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 440 of 2010

Nathi Lal Negi

APPELLANT

Vs

Usha Kumari and Others

RESPONDENT

Date of Decision : 26-04-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2
Constitution of India, 1950 — Article 227

Citation : (2011) 04 SHI CK 0352

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

Bench : Single Bench

Judgement

V.K. Ahuja, J.—The present petition under Article 227 of the Constitution of India has been filed by the Petitioner against the order passed by the learned Additional District Judge (Fast Track Court), Shimla, dated 16.11.2010, affirming the order passed by the learned Civil Judge (Senior Division), Court No. 1, Shimla, dated 17.8.2010, allowing the application filed by the Respondent for grant of an interim order. The said order was upheld by the learned Additional District Judge and being aggrieved, the present petition has been filed by the Petitioner, who is Defendant No. 4 before the learned trial Court.

2. I have heard the learned Counsel for the parties.

3. The brief facts necessary for the present discussion are that a suit was filed by Smt. Usha Kumari, hereinafter referred to as the Plaintiff, for declaration to the effect that the seniority list circulated on 30.6.2007 issued by Respondent No. 2 (Defendant No. 1 before the learned trial Court) is null and void. The relief of permanent injunction was also sought restraining Respondent No. 2 from considering and promoting the persons, namely, Uttam Chand, Smt. Nirmal Verma and Nathi Lal Negi, (Defendants No. 2 to 4 before the learned trial Court) as Assistant General Manager. An application under Order 39 Rules 1 and 2 CPC was also filed by the Plaintiff and the said application was allowed by the learned trial Court vide its order dated 17.8.2010, vide which the following order was

passed by the learned Civil Judge:

So Respondent bank by way of ad-interim injunction is restrained from promoting Respondents No. 2 to 4 to the post of Assistant General Manager without considering the candidature of the applicant, till disposal of the main suit.

4. Being aggrieved, an appeal was preferred by the present Petitioner before the learned Additional District Judge, who vide order dated 16.11.2010 dismissed the appeal filed by the Petitioner. Being aggrieved, the Petitioner has challenged the said order by way of filing the present petition.

5. After hearing the counsel for the parties and considering the case of both the parties, the following order is proposed to be passed as agreeable to the learned Counsel for the parties also. Respondent No. 2/ H.P. State Cooperative Bank Ltd. is permitted to proceed with considering the case of Plaintiff, Petitioner as well as Respondents No. 3 and 4 for promotion to the post of Assistant General Manager in accordance with the rules and the statutory instructions, if any, issued in this behalf, which shall be considered by Respondent No. 2 while making selection. It is clarified that the case of the Plaintiff/Respondent No. 1 shall also be considered alongwith other persons if eligible as per the rules accordingly and the post of Assistant General Manager shall be filled up accordingly by Respondent No. 2. It shall be mentioned in the appointment letter that the appointment is subject to the decision of the Civil Suit filed by Respondent No. 1 before the learned trial Court. The petition filed by the Petitioner stands allowed accordingly in view of the orders passed above. Copy of this order be sent to both the Courts below for information. Parties through their learned Counsel are directed to put up their appearance before the learned trial Court on the date fixed.

6. In view of the disposal of the main petition, all the pending miscellaneous application(s), if any also stand disposed of.