
(2010) 12 SHI CK 0058
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 8702 of 2008

N.V. Jain

APPELLANT

Vs

State of Himachal Pradesh and Another

RESPONDENT

Date of Decision : 22-12-2010

Acts Referred:

Citation : (2010) 12 SHI CK 0058

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

Bench : Single Bench

Judgement

V.K. Sharma, J.—The petition has been filed on the following prayers vide paras 7(a) and (b):

(a) Quash the impugned action of the Respondents whereby they have not paid interest @ 18% pa to the applicant being arbitrary, mala fide and illegal:

(b) Direct the Respondents to pay interest @ 18% pa to the application on the arrears from the date of amount falling due till the date of realization with all the consequential benefits.

2. In reply the Respondents have taken the following stand vide paras 3 and 6.2 on merits:

3. that the present original application filed by the applicant before this Hon'ble Tribunal is not maintainable due to the reasons that the applicant in the year 1994 was under transfer from GSSS Jubbal to GSSS Chamba and he was relieved inessential on 19.12.1994 from GSSS Jubbal. The applicant did not join at Chamba and got adjusted himself at GSSS Barotiwala in District Solan on 24.6.1995. Even in Barotiwala he did not join and in the month of January, 1997 he managed his adjustment in SCERT Solan where he joined as 4.4.1997. It is clear that the applicant w.e.f. 19.12.1994 to 3.4.1997 remained willfully absent. Thereafter in the month of April, 1997, the applicant managed his transfer/adjustment to this Directorate of Education where he joined on

24.4.1997. In the year 1998 pay scale was revised and pay fixation of the applicant under revised pay scale could not be done as absence period w.e.f. 19.12.1994 to 3.4.1997 was under dispute and service book of the applicant remained in transit in between different offices/schools for there settlement of leave as well as drawal of salary etc. His service book was again sent to the Principal, Govt. Sr. Section School, Jubbal on 6.2.1999 for drawal of salary for the period 19.12.1994 to 24.4.1995. On receipt of the service book from the Principal, GSS Jubbal, pay of the applicant was fixed in revised corresponding pay scale of Rs. 64500-10600 as he was drawing the pre-revised pay scale of Rs. 2000-3500 on 1.1.1996 on the basis of conversion table on 24.11.2001 and arrears accrued thereto were paid to the applicant accordingly, hence he has no ground to claim interest on payment of arrears. Therefore, the plea of the applicant is not sustainable and the present original application deserves dismissal.

6.2. That this para of the application is also not disputed. However, it is submitted that pay scale of the employees were revised in the year 1998 retrospectively w.e.f. 1.1.1996 but the category wise revision has not been made so far, hence on the request of the applicant his pay was fixed in the corresponding pay scale i.e. 6400-10600 on 24.11.2001.

3. The record reveals that the Petitioner had submitted representations Annexure-A1 to A7 to Respondent No. 2 inter alia amongst others, for redressal of the grievance raised by him in the present petition. However, it appears that neither the same have been looked into nor any decision taken in the matter till date.

4. In view of the above, the petition is disposed of with a direction to the Respondents/competent authority that subject to the Petitioner making a representation along with copies of representations Annexure-A1 to A7 and this judgment within one month from today, the said Respondents shall consider the same and take a final decision in the matter in accordance with law and justice within next two months, after affording an opportunity of being heard to the Petitioner, if so desired. Needless to say those consequential benefits, if any, would follow the decision on the representation.

5. The petition stands disposed of, so also the pending CMP(s), if any.