

(2011) 03 SHI CK 0304
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 786 of 2008

Pankaj Bisht and Others

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 15-03-2011

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2011) 03 SHI CK 0304

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Judgement

Sanjay Karol, J.—According to Ms. Ranjana Parmar, learned Counsel for the Petitioner, with the passage of time the scope of this petition has narrowed. Petitioners' grievance is only that there is no promotional avenue available to them and since the inception of their employment they have been stagnated on a single post.

2. According to Mr. Ram Murti Bisht, learned Dy. Advocate General the State has come out with the assured career progression scheme and as such Petitioners' grievance is adequately taken care of.

3. This aspect of the matter has already been dealt with by the Apex Court in Food Corporation of India and Others Vs. Parashotam Das Bansal and Others, wherein it has been held as under:

The Appellant is "State" within the meaning of Article 12 of the Constitution. An employee of a State although has no fundamental right of promotion, it has a right to be considered therefor. What is necessary is to provide an opportunity of advancement; promotion being a normal incidence of service. When employees are denied an opportunity of promotion for long years (in this case 30 years) on the ground that they fall within a category of employees excluded from promotional prospect, the superior Court will have jurisdiction to issue necessary direction. It there is no channel of promotion in respect of a particular group of

officers resulting in stagnation over the years, the Court although may not issue any direction as to manner by which a scheme should be formulated or by reason thereof interfere with the operation of existing channel of promotion to the officers working in different departments and officers of the Government but jurisdiction to issue direction to make a scheme cannot be denied to a superior Court of the country. How the employees would be structured is within the realm of the statutory authority but by reason thereof, it cannot tinker with their essential fundamental right.

So far as introduction of selection grade is concerned, the same does not provide for a promotional scheme. It is available to a limited number of employees. By reason thereof a promotional scheme cannot be said to have been framed. The Scheme of accelerated career progression is distinct and different from grant of selection grade.

4. It stands clarified that the scheme of accelerated career progression is distinct and different from the grant of selection grade.

5. Consequently without going into the merits of the case as prayed for by Ms. Ranjana Parmar, learned Counsel for the Petitioners, a direction is issued to the Respondents/State to consider the Petitioners' grievance only to the extent it survives today, in accordance with law. Needful be positively done within a period of four months from the date of receipt of the certified copy of the judgment.

6. Petition stands disposed of so also the pending application(s) if any.