

(2011) 03 SHI CK 0089
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 3554 of 2009

Partap Singh Rana

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 11-03-2011

Acts Referred:

Citation : (2011) 03 SHI CK 0089

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

Bench : Single Bench

Judgement

V.K. Sharma, J.—The petition has been filed on the following prayers:

(i) writ in the nature of mandamus may kindly be issued directing the Respondent No. 2 to issue appointment letters to the Petitioners against the posts of Firemen on regular basis since their names have been nominated after selection by Respondent No. 3 as per Annexure P-16, with all consequential benefits.

(ii) writ in the nature of mandamus may kindly be issued directing the Respondent No. 2 not to appoint the Petitioners on contract basis since the Petitioners have been interviewed and selected and nominated by the Respondents for the posts of Firemen on regular basis.

2. In reply, Respondents No. 1 and 2 have taken the following stand vide paras 16, 23 and 24:

16. It is admitted that this department received approval of the Government for filling up 129 posts of Firemen on regular basis during the financial year 2006-07 vide letter No. Home-B(B)5-1/87-II (Fire) dated 01-09-2006 (Annexure-R-3). In pursuance to this, the department issued notification the copy of which was endorsed, amongst others, to the Secretary, State Selection Commission Ex-servicemen Cell Hamirpur (Respondent No. 3) for nominating suitable 20 Ex-servicemen of different categories against the posts reserved for Ex-

servicemen vide endorsement No. HOM(FS) (HQ)(B) (2)7/03-8816-86 dated 23-12-2006 (Annexure-R-2). In response to this, Ex-servicemen Cell Hamirpur submitted 3 lists on different dates of suitable Ex-servicemen nominating them for the posts of Firemen against reserved quota for Ex-servicemen. The names of the Petitioners were nominated by the Exservicemen Cell vide their two letters No. DSW-EMP (Ex-servicemen Employment Cell) OC/88/2006 dated 22-02-2007 (Annexure-R-4) and 29.05.2007 (Annexure-R-5). Since the approval of the government to fill up these 129 posts was received only for the financial year 2006-07 as per Annexure R-3, this department moved a case for filling up these posts during the next financial year 2007-08 vide letter No. HOM(FS)(HQ) (B)(2)7/03-4676 dated 07/07-2007 (Annexure-R-6). The permission for filling up these posts was not accorded and the Govt. finally rejected the proposal to fill up these vacancies vide letter No. Home-B(B)5-1/87 Vol-II(Fire) dated 21-01-2008 (Annexure-R-7) during the year 2007-08. In the meantime R&P Rules which were under the process of amendment and provided for 50% recruitment on direct basis and 50% on batch wise basis, were received duly amended on 28-09-2007 (Annexure R-1).

This department requested for according permission to fill up these posts during the financial year 2008-09 vide letter No. HOM(FS)(HQ)(B)5-400-01-2529 dated 23-04-2008 (Annexure-R-8) and in response to this, the Government vide letter No. Home-B(B)5-1/87 Vol-II(Fire) dated 04-08-2008 (Annexure-R-9) accorded approval for filling up of only 50 posts of Firemen on contract basis. In view of this the department had to initiate the process afresh and issued notification vide this office endorsement No.

HOM(FS)(HQ)(B)(2)10/03-409 dated 29-01-2009 (Annexure R-10), the copy of which was also sent to Secretary State Selection Commission, Ex-Servicemen Cell Hamirpur, in which 4 posts reserved for Ex-Servicemen were required to be filled up through exservicemen Cell Hamirpur under the amended R&P Rules. The nomination against this 4 requisition is still awaited from Respondent No. 3. Under the, aforesaid, circumstances, this department could not issue appointment letter to the Petitioners.

23. It is admitted that the Petitioners were nominated by the Respondent No. 3 for the post of Firemen in the year 2006-07. But the process for filling up these posts could not be initiated/completed during the financial year 2006-07. The department again requested the Govt. to accord approval for filling up these posts during the year 2007-08 but Govt. declined to accord approval for filling up these posts during the year 2007-08 vide his letter No. Home B(B)5-1/87 Vol-II(Fire) dated 21-01-2008 (Annexure R-11). Govt. accorded the approval to recruit 50 Firemen on contract basis during the year 2008-09, in pursuance of which the department has taken further necessary action. In view of this, department could not give any appointment.

24. It is admitted that the posts of firemen were published by this department on regular basis and the requisition was endorsed to the Respondent No. 3 to

sponsor the suitable Ex-servicemen. Since the vacancies could not be filled up during the financial year 2006-07, the department moved a proposal to fill up these vacancies during the year 2007-08. The proposal was finally rejected by the Govt. during the financial year 2007-08. As a result, process to fill up these 129 posts on regular basis could not be completed by the department.

3. In the facts and circumstances of the case, the petition is disposed of with a direction to Respondents No. 1 and 2 to consider the case of the Petitioners for appointment as Fireman in terms of Nomination letter dated nil of February, 2007, Annexure P-16, within three months from the date of production of copy of this judgment by the Petitioners, in accordance with law, particularly the law laid down by the Hon''ble Supreme Court in K. Manjusree Vs. State of A.P. and Another, after affording an opportunity of being heard to them/their duly authorized representative, if so desired.

4. The petition, so also pending application(s), if any, stand disposed of in the above terms.