

(2024) 04 SHI CK 0069
In the High Court Of Himachal Pradesh
Case No : CWPOA No.4798 Of 2020

Pradeep Kumar

APPELLANT

Vs

State Of H.P. & Ors

RESPONDENT

Date of Decision : 18-04-2024

Acts Referred:

Citation : (2024) 04 SHI CK 0069

Hon'ble Judges : Tarlok Singh Chauhan, J;Sushil Kukreja, J

Bench : Division Bench

Advocate : Nishant Khidtta, V.D. Khidtta, Ramakant Sharma, Sharmila Patial, A.Gs., Raj Negi

Final Decision : Dismissed

Judgement

Tarlok Singh Chauhan, J

1. The instant petition has been filed for grant of following substantive relief:

"that the respondents may kindly be directed to consider the case of the applicant for appointment as daily wage clerk w.e.f. 7.2.2006 on notional basis, on which date applicant has been given appointment as daily wage beldar on the basis of judgments passed in Annexure A-1 (colly)."

2 We are really wonder how the instant petition is maintainable as admittedly the petitioner had earlier filed CWP No. 1575/2012 for an identical relief and the same decided by the learned Single Judge of this Court on 17.5.2014 with a direction to the respondents to consider the case of the petitioner for appointment as a Clerk in terms of the judgment relied upon by the petitioner in CWP No. 1343/2012, titled as Ishwar Singh vs. State of H.P., however the respondent-State assailed the order passed by the learned Single Judge in LPA No. 1892014/, titled as State of H.P. vs. Pradeep Kumar. The appeal was thereafter tagged with a batch of other cases lead being CWP No. 9094/2013, titled as Surender Kumar vs. State of H.P. and connected matters, which came to be decided by learned Division Bench of this Court on 6.10.2015 and the appeal

filed by the State was allowed with pertinent observation made in para 77 of the judgment, which reads as under:-

77. The sum and substance of the above discussion is that the incumbents, who have been appointed on a particular post and have joined to the said post without expressing any reluctance or protest, such incumbents are precluded from claiming that they should either be appointed to a higher post or should have been given appointment on regular basis, instead of employment on contract basis, or have been discriminated viz. a viz. similarly paced persons.”

3 This judgment was assailed by the petitioner before the Hon’ble Supreme Court, however SLP came to be dismissed in limine. The judgment rendered by the Hon’ble Supreme Court in personam would obviously bind the parties to the dispute i.e. petitioner and the respondents herein and is thus not open to challenge in the instant petition for the same reason and the petitioner can also not seek any support from the other judgments relied upon by him, more particularly, judgment rendered in CWP No. 7803/2010, titled as Sukh Dutt vs. State of H.P., decided on 16.12.2010 or for that matter, judgment rendered in CWP (T) No. 15008/2008, titled as Nagender Singh vs. State of H.P., decided on 12.11.2009.

4 In view of aforesaid discussions, we find the instant petition to be not maintainable and accordingly the same as also the pending application(s), if any, leaving the parties to bear their own costs.