
(2011) 05 SHI CK 0045
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 4861 of 2008

Raghubir Singh

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 05-05-2011

Acts Referred:

Citation : (2011) 05 SHI CK 0045

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Judgement

Deepak Gupta, J.—By means of this petition, the Petitioner has prayed that he be granted benefit of seniority from the date of his passing Basic Police Radio Training Course which he passed in November, 1964 instead of 15.9.1968. According to him, he was to be promoted as Head Constable from November, 1964 itself. He accordingly claims seniority over the private Respondents.

2. This petition was originally filed before the erstwhile H.P State Administrative Tribunal on 20.1.1998. Since the Tribunal stands abolished vide notification issued by the Central Government, the case has been transferred to this Court in terms of the Himachal Pradesh Administrative Tribunal (Transfer of Decided and Pending Cases and Applications) Act, 2008. The matter has, therefore, been taken up by this Court and now registered as CWP(T) No. 4861 of 2008.

3. The case of the Petitioner is that in the year, 1964, he attended the Basic Police Radio Training Course conducted by the Police Radio Training Centre, Ambala from June 1964 to November, 1964. According to the Petitioner, he was declared successful candidate and, therefore, was eligible for promotion as Head Constable immediately thereafter.

4. On and w.e.f. 1.11.1966, the services of the Petitioner who was earlier working in the State of Punjab were allocated to the State of Himachal Pradesh in terms of Punjab Reorganisation Act, 1966. At the time when his services were taken over, he was working as constable and was promoted as Head Constable

on 15.9.1968. He continued to work as such and for the first time on 9.1.1996, the Petitioner sent a representation to the Government that he should have been promoted in the year 1964. This representation was rejected on 23.11.1996 vide order Annexure A/1.

5. According to the State, the private Respondents were promoted as Head Constable earlier to the Petitioner and, therefore, he could not be made senior to them. It is also mentioned that the Petitioner was declared passed in all subjects except morse sending and theory and, therefore, could not be considered to have passed the course.

6. Sh. Subhash Sharma, learned Counsel for the Petitioner relying upon Annexure A/2 which is a letter dated 16.4.1996 issued on behalf of the DIG, Police Tele-communications, Punjab urges that the Petitioner had been declared successful in the Basic Police Radio Training Course, relevant portion of which reads as follows:

Raghubir Singh SI/W (Ex. Const. No. 169/R) has undergone Basic Police Radio Training Course during November 1964 and was declared successful with condition in sending and theory.

7. The State on the other hand, relies upon the other communication of the same official dated 9.7.1996, Annexure AR-1 which reads as follows:

Raghubir Singh SI/W (ex-constable No. 169/R) was declared passed in all subjects except morse sending and theory.

8. A comparison of these two communications clearly shows that though the first communication indicated that the Petitioner had passed the Basic Police Radio Training Course subject to certain conditions, in the second letter, it was clearly stated that the Petitioner had passed in all subjects except morse sending and theory. There is no communication to the effect that the Petitioner was declared to have successfully passed the said course. Therefore, it cannot be said that the Petitioner had actually successfully declared passed and was eligible for promotion as Head Constable.

9. Even otherwise, I am of the considered view that the petition is highly belated. The Petitioner essentially by means of this petition is claiming seniority over the private Respondents who have raised a specific plea that the petition is time barred. The private Respondents were promoted prior to the year 1968 when the Petitioner was promoted. There is no explanation worth the name why the Petitioner waited till 1998 to file the petition. No person can sit over his rights for such a long period and claim after a period of three decades that he should be granted seniority.

10. In view of the above discussion, I find no merit in the petition which is accordingly rejected. No order as to costs.