
(2011) 04 SHI CK 0195
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 11467 of 2008

Raghunath Singh

APPELLANT

Vs

State of H.P and Others

RESPONDENT

Date of Decision : 07-04-2011

Acts Referred:

Citation : (2011) 04 SHI CK 0195

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

Bench : Single Bench

Judgement

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

That the Respondents may kindly be directed to provide the senior scale of Rs. 1350-2410 to the applicant, w.e.f. 1.2.88, the date, the same was provided to Sh. Ramesh Kumar, Patwari, Junior to the applicant, along with all consequential benefits.

2. In reply, the Respondents have taken the following stand vide paras 3 and 6 (XVII) (b):

3. The contents of this para are not admitted as correct. It is respectfully submitted that the H.P. Govt vide letter No. Fin (e) 3 (7)-6/99-II dated 9.5.1991 has given senior scale to 50% senior Patwaris. The seniority list has been issued during the year 1988, and on the basis of said seniority list 50% of the senior patwaris were given senior scale. In the said seniority list, Shri Ramesh Chand, Patwari stood at Sr. No. 320, whereas the applicant (Shri Raghunath Singh) at Sr. No. 388. As a result there of, Shri Ramesh Chand Patwari is quite senior to Shri Raghunath Singh and therefore Sh. Ramesh Chand and Sh. Raghunath Singh Patwasri were given senior scale w.e.f. 1.1.1988 and 1.2.1990, respectively.

(XVII) (b) The averments of this sub para are not admitted as correct. The senior scale has been given to the patwaris on the basis of seniority list of year 1988 in District Kangra. Shri Ramesh Chand patwari was senior to Shri Raghunath Singh

(applicant) according to the seniority list of the year 1988, in which he was placed at Serial No. 320 and the applicant at Serial No. 388. The above seniority list was prepared on the basis of date of selection of patwaris, whereas in the seniority list prepared during the year 1993 as per Divisional Commissioners order No. Div-Commr/R/E/92-1053 dated 9.3.1993 the date of qualifying the departmental exam was made the criteria of fixing the seniority of patwari candidates.

3. In view of the reply, it is manifest that Senior Scale was granted to the said Shri Ramesh Chand, Patwari, on 1.1.1988, that is, prior to the Petitioner who was granted this benefit on 1.2.1990, on the ground that "Seniority list prepared during the year 1993 as per Divisional Commission's order No. Div-Commr/R/E/92-1053 dated 9.3.1993, whereby the date of qualifying the departmental exam was made the criteria of fixing the seniority of patwari candidates."

4. However, the learned Counsel for the Petitioner has brought on record copy of seniority list issued vide order dated 10/11th February, 1993 of the Divisional Commissioner, Kangra at Dharamshala, wherein the name of the Petitioner finds mention at Sr. No. 272 and that of the said Shri Ramesh Kumar, Patwari, at Sr. No. 294, meaning thereby that the Petitioner is senior to the said Shri Ramesh Kumar, Patwari.

5. In view of the above, the petition is disposed of with a direction to the Respondents/competent authority to consider the case of the Petitioner for grant of senior scale of Rs. 1350-2410/- with effect from 1.1.1988, that is the date from which his junior Shri Ramesh Kumar, Patwari, was granted such benefit, along with consequential benefits, if any, within three months from the date of production of copy of this judgment by the Petitioner, in accordance with law, particularly the settled principle of law that "a senior cannot be paid a lesser salary than his junior", as has been held by the Hon'ble Supreme Court in Er. Gurcharan Singh Grewal and Another Vs. Punjab State Electricity Board and Others, vide paras 15 and 17, which are extracted below:

15. Mr. Chhabra also attempted to justify the disparity in the pay of Shri Shori and Appellant 1 by urging that Appellant 1 had been granted the promotional scale with effect from 1-1-1996, where the benefits of increment in the scale were lower. On the other hand, Shri Shori who joined the services of the Board in 1974, was granted the promotional scale on 17.5.2006, with effect from 1.9.2001, when the increments and the pay scales were higher. Mr. Chhabra submitted that it is the disparity in the incremental benefits that led to the anomaly of Appellant 1 getting a lower salary in the promotional scale.

17. Something may be said with regard to Mr. Chhabra's submissions about the difference in increment in the scales in which Appellant 1 and Shri Shori are placed, but the same is still contrary to the settled principle of law that a senior cannot be paid a lesser salary than his junior. In such circumstances, even if there was a difference in the incremental benefits in the scale given to Appellant

1 and the scale given to Shri Shori, such anomaly should not have been allowed to continue and ought to have been rectified so that the pay of Appellant 1 was also stepped up to that of Shri Shori, as appears to have been done in the case of Appellant 2.

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