

(2011) 02 SHI CK 0059
In the High Court Of Himachal Pradesh
Case No : C.W.P. (T) No. 13724 of 2008

Ram Jani

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 23-02-2011

Acts Referred:

Citation : (2011) 02 SHI CK 0059

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—Petitioner was promoted to the post of Whole Time Contingent Paid Employee vide office order dated 07.03.2005. However, the same has been withdrawn vide office order dated 13.04.2006. Admittedly, the Petitioner has not been heard before the issuance of orders dated 13.04.2006 (Annexures A-1 and A-2). Petitioner could not be reverted from the higher post without hearing him, rather it amounts to reversion.

2. Their Lordships of the Hon''ble Supreme Court in Union of India (UOI) and Another Vs. Narendra Singh, have held as under:

34. True it is that before such an action is taken and a person is actually reverted, he must be given an opportunity to show cause why the proposed action should not be taken. He may be able to satisfy the authorities that there was no such mistake. But even otherwise, principles of natural justice and fair play require give of such opportunity to him. But as observed earlier, in the instant case, in accordance with Rule 31-A of the Fundamental Rules, notice was issued to the Respondent employee, explanation was sought and thereafter the order was passed. The said order, in our considered view, was just, proper and in consonance with law and it ought not to have been set aside by the Tribunal or by the High Court. To that extent, therefore, the orders impugned in this appeal deserve to be set aside.

3. Accordingly, in view of the observations and discussions made hereinabove, the petition is allowed. Annexures A-1 and A-2, dated 13.04.2006 are quashed and set aside. The consequences shall ensue. No costs.