

(2010) 10 SHI CK 0289
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 4284 of 2008

Rattan Lal Dhiman

APPELLANT

Vs

The State of H.P. and Others

RESPONDENT

Date of Decision : 26-10-2010

Acts Referred:

Citation : (2010) 10 SHI CK 0289

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

Bench : Single Bench

Final Decision : Allowed

Judgement

V.K. Sharma, J.—The learned Deputy Advocate General, appearing on behalf of the Respondents, has filed a communication dated 25th October, 2010, addressed by the Principal Chief Conservator of Forests, Himachal Pradesh, Shimla to the Advocate General, Himachal Pradesh, Shimla, which is taken on record. It is to the following effect:

Kindly refer to your letter No. CWP(T) No. 4284/2008-36583-4 dated 21.10.2010 on the subject cited above.

2. It is submitted that in the year 1978, requisition for 75 posts of Deputy Rangers was sent to various Employment Exchanges in Himachal Pradesh by Forest Department. The Employment Exchanges were requested to sponsored the names of such candidates who have passed Matriculation or equivalent Examination with Science subject (Physics and Chemistry) to the concerned Conservator of Forests. The interested in service candidates having minimum qualification (Matric with Science) were also eligible to appear for the interviews. The interview for Dharamshala Circle was held on 29 and 30.12.1978, in which in service candidates were also considered alongwith candidates sponsored by the Employment Exchanges. A penal List of 31 remaining candidates in the said interview in Dharamshala Circle was prepared. Shri Hukam Chand (Sr. No. 14) was appointed on the analogy of shri Daljeet Singh Dhaulta who had passed

Matric with general Science as Deputy Ranger by the Govt. on the advice of Law Department. The Petitioner Shri Rattan Lal Dhiman (Sr. No. 23) in panel list of the candidates of Dharamshala Circle had failed in Physics and Chemistry at Matriculation level, therefore, his name could not be considered by the Committee.

3. The present petition has been filed for grant of the following substantive reliefs vide para 7(a) to (c) of the petition:

7(a) Direct the Respondents to appoint the applicant as Deputy Forest Ranger w.e.f. 28.2.79 and treat him similarly to Sarvshri Daljeet Singh Dhaulta, Prem Lal and Hukam Singh and grant him all benefits which have been granted to them;

(b) Direct the Respondents to grant all consequential benefits and pay all the arrears alongwith interest @ 18% per annum;

(c) Direct the Respondents to grant all consequential benefits to the applicant.

4. The Respondents have taken the following stand vide paras 6(f) to (i) and (1) of the reply:

6(f) Admitted to the extent that 75 posts of Deputy Rangers were notified to the various Employment Exchanges in respect of H.P. Forest Department. Out of these, 17 posts were to be filled up in Dharamshala Circle as per provision of Recruitment and promotion Rules notified vide H.P. Govt. notification No. Fts. (B0-2-5/76 dated 15.11.78 for which a panel of 21 candidates was drawn by Selection Committee out of the candidates, who appeared for interview fixed on 29 and 30.12.78 at Dharamshala including departmental candidates. Out of these, 15 candidates were recruited and two candidates were taken from Ex-serviceman. The name of the applicant was not appearing in the selection list. However a list of 31 candidates in remaining panel was also drawn in which the name of applicant was appearing at Sl. No. 23 and thus the applicant could not qualify requisite merit as per provision of Recruitment and promotion rules of 1951 as well as 1978.

6(g) Not admitted, as no violation of Rules was done while making appointments to the posts of Deputy Rangers. A panel of 21 candidates was drawn by the selection Committee out of the candidates, who appeared in interview for the post of Deputy Rangers fixed on 29 and 20.12.78 at Dharamshala. 17 posts of Deputy Rangers were to be filled-in in Dharamshala Circle as under:

1. General 8. 2. S.C. 3. 3. S.T. 1. 4. B.C. 2. 5. Ex 2. Serviceman. 6. Antodya 1. family members_____ 17 _____

15 candidates out of this panel and two Ex-serviceman candidates were recruited as per roster points. The name of the applicant was not appearing in that selection panel referred to above.

6(h) The contents of this para so far appointment, termination and deciding the case in favour of Shri Daljit Singh Dhaulta by the Sub-Judge Ist Class (III)

Shimla are concerned, are not admitted. Shri Daljit Singh Dhaulta was given offer subject to production of essential documents and certificates. The requisite certificates were not produced by him and appointment order was not issued. Meanwhile he filed a suit in the Court of Sub-Judge Ist Class (III) Shimla to restrain the department from terminating his services. Upon this Court passed an ex-parte interim injunction restraining the State from terminating him till the disposal of the suit. This stay order was vacated by the Court of Sub-judge Ist Class(III) on 25.5.79 and thereafter offer of appointment was withdrawn. Rest of the contents are admitted.

6(i) Contents of this para are admitted to the extent that Shri Prem Lal Forest Guard of Bilaspur Circle was not appointed on the post of Deputy Ranger due to the reason that he had not passed matric with physics/Chemistry subject and furnished the certificate having passed the above subject during May 1979 and thus he was appointed as Deputy Ranger w.e.f. 25.5.79.

6(j) The contents of this para are denied. Shri Daljeet Singh Dhaulta appeared for interview in Shimla Circle and Sh. Prem Lal appeared in Bilaspur Circle. S/Shri Hukam Singh and Rattan Lal appeared for interview in Dharamshala Circle. Both these candidates were considered in D/Sala Circle and the name of Shri Hukam Singh appeared at Sl. No. 14 of the remaining panel whereas Shri Rattan Lal Dhiman appeared at Sl. No. 23 of the said panel list which clearly shows that Shri Hukam Singh was above in the merit than the applicant. As regards, S.C. Candidates, the selection of three S.C. Candidates stands already made out of the candidates qualified under selection list of 21 candidates as stated under para 6(g) above.

5. Admittedly, as per the Himachal Pradesh Forest Subordinate Service (Executive Section) Rules, 1951 (in short "the 1951 Rules")(Annexure A-1), the minimum educational qualification for a departmental candidate for appointment on promotion as Deputy Ranger was matriculation from a recognized University/Board. It is also not in dispute that when the process for appointment by promotion for the post of Deputy Ranger for the departmental candidates, under reference, was initiated in the year 1978, the 1951 Rules were holding the field. However, in the interregnum, an amendment was incorporated in the rules, whereby it was provided that the candidate must have passed matriculation examination alongwith Science subjects, viz. Physics and Chemistry. The condition with regard to the newly provided educational qualification was notified vide Notification dated 5th March, 1979 (Annexure A-2).

6. Against the above backdrop, the selection process was completed. Apart from the selected candidates, who were given appointment, a waiting panel of 31 candidates was also prepared. The Petitioner figured at serial No. 23 of the said panel. Later on, a question arose whether those candidates who had passed matriculation examination without Science subjects viz. Physics and Chemistry, whose names figured in the waiting list, were also to be offered appointment or not. At that point of time, the case of one Shri Hukam Singh, who was figuring at

serial No. 14 of the panel was considered and he was appointed as Deputy Ranger on the analogy of one Shri Daljeet Sing Dhaulta, who had passed matriculation examination with general Science as a subject. According to the Respondents, it was done on the advise of the Law Department.

7. Now, while adverting to the facts of the present case, it is apparent from matriculation examination certificate (Annexure A-8) that the Petitioner had passed matriculation examination in the year 1971 with general Science as one of the subjects. Thus, there cannot be any dispute with the proposition that the Petitioner is also a similarly situate person, as the aforesaid Shri Hukam Singh was. It being so, he cannot be discriminated against in the matter of appointment by promotion as Deputy Ranger.

8. In view of the above, the petition is allowed. Consequently, the Respondents are directed to consider the case of the Petitioner for appointment by promotion to the post of Deputy Ranger as a Departmental Candidate on the analogy of the said Shri Daljeet Singh Dhaulta, as approved by the Law Department and later on applied in the case of the said Shri Hukam Singh from the due date, i.e., 28.02.1979. It be done within a period of three months from today. The Petitioner shall also be entitled for all the consequential benefits and the arrears in this regard shall also be paid to him within the same time.

9. The petition stands disposed of.