
(2010) 11 SHI CK 0370
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 4143 of 2008

Satinder Kumar Sharma and Others

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 15-11-2010

Acts Referred:

Citation : (2010) 11 SHI CK 0370

Hon'ble Judges : Kurian Joseph, C.J;V.K. Ahuja, J

Bench : Division Bench

Judgement

Kurian Joseph, C. J.

1. The writ petition has been filed with the following prayers:

I) That the Demobilized Armed Forces Personnel (Reservation of Vacancies in Himachal State Non-Technical Services), Rules 1972 may be held ultra vires to the Constitution and be quashed and set aside.

II) That, in the alternative Rule 591) of the Demobilized Armed Forces Personnel (Reservation of Vacancies in Himachal State Non-Technical Services) Rules, 1972 may be held ultra vires to the Constitution and be quashed and set aside.

III) That the benefit of approved Military Service towards seniority granted to Respondents No. 4 to 15 may be withdrawn and Respondents 1 and 3 may be directed to redraw the fresh seniority list of School Cadre Lecturers accordingly.

IV) That the Respondents 1 and 3 may be directed to determine the seniority of Respondents 4 to 15 with effect from the dates they were actually appointed as Lecturers (School Cadre).

V) That the Respondents 1 and 3 may be directed to consider the eligible Lecturers for promotion only after a fresh seniority list, as prayed for above, is drawn by them. They may also be directed not to take any action on the basis and in furtherance to communication dated 13.08.1996 and Respondents 4 to 15

be not considered for promotion to the post of Principal on the basis of impugned seniority list.

VI) That the seniority assigned to Respondents No. 4 to 15 vide memorandum dated 09.06.1993 (Annexure A-5) be withdrawn and fresh seniority list be drawn after determining the seniority of Respondents No. 4 to 15 with effect from their actual dates of appointment."

2. In view of the bunch decision of this Court in V.K. Behal and Ors. v. State of H.P. and Ors. rendered in C.W.P. No. 488 of 2001, decided on 29.12.2008, the matter requires re-consideration by the 1st Respondent. The private Respondents are not entitled, allegedly submitted by the learned Counsel for the Petitioners, to the benefit of the past military service given to them. The Respondent No. 1 is directed to re-consider the case of the Petitioners and the Respondents in the light of the judgment passed in V.K. Behal case, supra and fix the seniority accordingly afresh, with notice to the parties. This shall be done within a period of four months from the date of production of copy of this judgment alongwith the copy of the writ petition before the 1st Respondent.

3. The writ petition is disposed of, so also the pending application(s), if any.