

(2010) 08 SHI CK 0123
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 5802 of 2008

Seth Chand and Another

APPELLANT

Vs

H.P. Nagar Vikas Pradhikaran and Others

RESPONDENT

Date of Decision : 23-08-2010

Acts Referred:

Citation : (2010) 08 SHI CK 0123

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Deepak Gupta, J.—Sh. Sanjeev Bhushan, learned Counsel for the petitioners states that no relief is claimed by petitioner No. 1. As is apparent from the order dated 15.5.2002, this petition is being pursued only on behalf of petitioner No. 2 and not on behalf of petitioner No. 1.

2. The case of the petitioner is that though he is senior to S/Sh. Rajeev Kumar and Mohan Lal, these two persons were appointed as Work Inspectors on daily wages whereas the petitioner was continued on the lower post of Beldar.

3. The respondent in its reply has not denied that S/Sh. Rajeev Kumar and Mohan Lal are junior to the petitioners. The respondent also did not deny the fact that these two persons have been appointed as Work Inspectors. The stand of the respondents is that two posts of Work Inspector fell vacant in Dharamshala and Kullu. Options were asked for from the various employees and only S/Sh. Rajeev Kumar and Mohan Lal opted to go to these places and, therefore, they were appointed as Work Inspector on daily wages.

4. The petitioner in his rejoinder has denied the fact that any option was asked for. The Board filed a sur-rejoinder in which it was stated that orally options were taken. In a Government organization/Government Company, there is no question of taking any oral options from the employees. Even if such oral options were taken, there should have been some contemporaneous noting on some file to

reflect that such options were taken. No such material has been placed on record. Even otherwise, when such important issues such as appointment to higher posts are involved, then options must be given to the employees in writing. If such options are not given in writing then an adverse inference can be drawn that such option was never given.

5. Since S/Sh. Rajeev Kumar and Mohan Lal were admittedly junior to the petitioner, the petitioner had a right to be considered for the post of Work Inspector and he has been deprived of his right without any adequate reason. Therefore, the petition is allowed and the petitioner is held entitled to the daily wages of a Work Inspector from the date when his juniors were appointed to such posts.

6. The petition is accordingly disposed of with a direction that the amount due and payable to the petitioner shall be calculated and paid to him alongwith 6% interest on or before 31st December, 2010. In case this amount is not paid by the said date, the amount of interest payable shall be 12% per annum. No orders as to costs.