
(2010) 10 SHI CK 0261
In the High Court Of Himachal Pradesh
Case No : C.W.P. (T) No. 6456 of 2008

Sh. D.S. Chawla

APPELLANT

Vs

H.P. K.V.V. and Others

RESPONDENT

Date of Decision : 19-10-2010

Acts Referred:

Citation : (2010) 10 SHI CK 0261

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Deepak Gupta, J.—The petitioner had filed this O.A. before the erstwhile H.P. State Administrative Tribunal. On abolition of the Tribunal this case has been transferred to this Court in terms of the Himachal Pradesh Administrative Tribunal (Transfer of Decided and Pending Cases and Applications) Act, 2008.

2. The undisputed facts of the case are that the petitioner was working as Superintendent Grade-II and became eligible for promotion to the post of superintendent Grade-I in November, 1991. However, some disciplinary proceedings were initiated against the petitioner vide memo dated 18.3.1995 and finally vide order dated 30th July, 1996 the petitioner was visited with a penalty of stoppage of two increments besides recovery of Rs. 1317/-. Two increments fell due to the petitioner in March, 1997 and March, 1998. On 13.4.1998 the respondent University considered the case of the petitioner as well as respondent No. 4 for promotion to the post of superintendent Grade-I. The petitioner was not found eligible for promotion on the ground that the penalty imposed upon him on 30th July, 1996 was for a period of two years and would come to an end only on 30th July, 1998. As pointed out above, the penalty which had been imposed upon the petitioner was only that he would not be entitled to two increments and further that he would pay a sum of Rs. 1317/- to the University. This penalty by no stretch of imagination can mean that the petitioner could not be promoted for two years. It came to an end as soon as second

increment become due but was not paid to the petitioner. It is not disputed that the petitioner's increment fell due in March and therefore the period of penalty come to an end in the month of March, 1998. Thereafter, the petitioner was eligible for promotion and penalty could not have come in his way after 31st March, 1998 and could not be a bar to the promotion of the petitioner if otherwise found suitable.

3. In view of the above discussion, this petition is allowed. It is directed that the petitioner shall be considered for promotion as Superintendent Grade-I on 13.4.1998 and if he otherwise found eligible he shall be promoted as such with all consequential benefits. It is further directed that in case the petitioner is promoted all financial benefits be paid to him along with interest @ 6% p.a. on or before 30.4.2011. In case the amount is not paid by the said date the respondent shall be liable to pay interest @ 12% p.a. No costs.