

(2012) 03 SHI CK 0050

In the High Court Of Himachal Pradesh

Case No : CWP No. 7895 of 2011-J and CWP No. 6383 of 2011-G

Sh. Jagdish Chand

APPELLANT

Vs

Himachal Pradesh State Electricity Board, Chief Engineer
Operation South, HPSEB, Shimla-4 and Sr. Executive
Engineer Electrical Division HPSEB, Nalagarh, Shimla-1

 Smt. Sunita Devi Vs Himachal Pradesh State Electricity
Board

RESPONDENT

Date of Decision : 12-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0050

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : Shweta Joolka, for the Appellant; Anjula Khajuria, for the Respondent

Judgement

Sanjay Karol, J.—Petitioners have prayed for the following reliefs:-

CWP No. 7895 of 2011-J

a) This Hon''ble Court may kindly be pleased to direct the respondents by way of issuance of Writ of Mandamus to consider the petitioner as having been appointed against the post of T-Mate pursuant to office order dated 12.8.2008 on regular basis for all intents and purpose and having been appointed against the post of T-Mate pursuant to office order dated 12.8.2008 on regular basis for all intents and purpose and further this Hon''ble Court may be pleased to issue a Writ of Certiorari quashing the word "contract" from the appointment letter, dated 12.8.2008 issued to the petitioner on contract basis.

b) this Hon''ble Court may further be pleased to issue a Writ of Mandamus directing the respondent State to pay to the petitioner all the emoluments the petitioner is entitled as a regular employee in the establishment of respondent No. 2 w.e.f. petitioner date of is initial appointment with all consequential benefits including counting the period for the purpose of seniority etc.

CWP No. 3006 of 2011-D

a) This Hon''ble Court may kindly be pleased to direct the respondents by way of issuance of Writ of Mandamus to consider the petitioner as having been appointed against the post of T-Mate pursuant to office order dated 6.8.2008 on regular basis for all intents and purpose and further this Hon''ble Court may be pleased to issue a Writ of Certiorari quashing the word "contract" from the appointment letter, dated 6.8.2008 issued to the petitioner on contract basis.

b) This Hon''ble Court may further be pleased to issue a Writ of Mandamus directing the respondent State to pay to the petitioner all the emoluments the petitioner is entitled as a regular employee in the establishment of respondent No. 3 w.e.f. petitioners date of initial appointment with all consequential benefits including counting the period for the purpose of seniority etc."

CWP No. 6383 of 2011-G

a) This Hon''ble Court may kindly be pleased to direct the respondents by way of issuance of Writ of Mandamus to consider the petitioner as having been appointed against the post of Helper (P/H) pursuant to office order dated 13.8.2008 on regular basis for all intents and purpose and further this Hon''ble Court may be pleased to issue a Writ of Certiorari quashing the word "contract" from the appointment letter, dated 13.8.2008 issued to the petitioner on contract basis.

b) This Hon''ble Court may further be pleased to issue a Writ of Mandamus directing the respondent State to pay to the petitioner all the emoluments he is entitled as a regular employee in the establishment of respondent No. 3 w.e.f. petitioners date of initial appointment with all consequential benefits including counting the period for the purpose of seniority etc.

CWP No. 6392 of 2011-G

a) This Hon''ble Court may kindly be pleased to direct the respondents by way of issuance of writ of mandamus to consider the petitioner as having been appointed against the post of T-Mate pursuant to office order dated 07.08.2008 on regular basis for all intents and purpose and further this Hon''ble Court may be pleased to issue a Writ of Certiorari quashing the word "contract" from the appointment letter, dated 7/8/2008 issued to the petitioner on contract basis.

b) This Hon''ble Court may further be pleased to issue a Writ of Mandamus directing the respondent State to pay to the petitioner all the emoluments the petitioner is entitled as a regular employee in the establishment of respondent No. 3 w.e.f. petitioners date of initial appointment with all consequential benefits including counting the period for the purpose of seniority etc.

CWP No. 6393 of 2011-G

a) This Hon''ble Court may kindly be pleased to direct the respondents by way of issuance of writ of mandamus to consider the petitioner as having been

appointed against the post of Helper (P/H) pursuant to office order dated 25.08.2008 on regular basis for all intents and purpose and further this Hon''ble Court may be pleased to issue a Writ of Certiorari quashing the word "contract" from the appointment letter, dated 25/8/2008 issued to the petitioner on contract basis.

b) This Hon''ble Court may further be pleased to issue a Writ of Mandamus directing the respondent State to pay to the petitioner all the emoluments the petitioner is entitled as a regular employee in the establishment of respondent No. 3 w.e.f. petitioners date of is initial appointment with all consequential benefits including counting the period for the purpose of seniority etc.

CWP No. 6395 of 2011-G

a) This Hon''ble Court may kindly be pleased to direct the respondents by way of issuance of Writ of Mandamus to consider the petitioner as having been appointed against the post of Helper (H/M) pursuant to office order dated 05.08.2008 on regular basis for all intents and purpose and further this Hon''ble Court may be pleased to issue a Writ of Certiorari quashing the word "contract" from the appointment letter, dated 5/8/2008 issued to the petitioner on contract basis.

b) This Hon''ble Court may further be pleased to issue a Writ of Mandamus directing the respondent State to pay to the petitioner all the emoluments the petitioner is entitled as a regular employee in the establishment of respondent No. 3 w.e.f. petitioners date of is initial appointment with all consequential benefits including counting the period for the purpose of seniority etc.

It is seen that with respect to similarly situated persons, seeking identical prayers, Division Bench of this Court in terms of judgment dated 5.3.2011 in CWP No. 849 of 2011 titled as Rajesh Kumar v. H.P. State Electricity Board & Ors., alongwith other connected matters has allowed the petitions and passed the following directions:-

The issue has been considered by this Court in Annexure P-5 judgment, in CWP No. 2466 of 2010 alongwith connected matters, wherein the following direction has been issued-

There will be a direction to the Director, Animal Husbandry to see whether 3% quota of disabled persons has been met in the category of regular beldars. In case there is deficiency in the 3% quota in the cadre strength of regular beldars, the persons recruited in these cases shall be adjusted against those regular vacancies, since the recruitment process is the same for daily wages beldars and regular beldars. We make it clear that it is open to the Animal Husbandry department to ear-mark separate quota of 3% as against the daily waged beldars as well, subject to fulfillment of regular beldars in the ear-marked quota of 3%. Needful adjustments in the case of petitioners in the light of this judgment shall be done by the Director, Animal Husbandry, within a period of

four months from the date of production of copy of this judgment by the petitioners. Consequential benefits shall also be disbursed within another period of two months.

2. These writ petitions are also disposed of in terms of the directions as above, with a further direction to do the needful in the case of the petitioner(s) within three months from the date of copy of the judgment alongwith a copy of the writ petition by the petitioner concerned.

3. It is also seen that in identical circumstances respondents themselves accorded benefit of regularisation to one Sh. Surya Kant vide order dated 3.3.2010 (Annexure P-3). Though, it is stated by the respondents that the concerned officer did not belong to 3% handicapped quota but this fact stands contradicted by their own record which is communication dated 31.8.2009 (Page 17 of the paper book) which reveals that extension was in fact granted to Sh. Surya Kant when his period of contract was extended by one year, as he belonged to the category of disabled persons recruited against 3% quota.

4. The fact that the judgment dated 5.3.2011 in Rajesh Kumar (supra) has been implemented, is not in dispute, though SLP arising out of the said proceedings is pending, in which also there is no stay against implementation of the said judgment. Consequently, the present petitions are being disposed of in terms of earlier decision of this Court. The directions issued in Rajesh Kumar (supra) shall mutatis mutandi apply to the cases of the instant petitioners also. This however shall be subject to the result of the SLP filed by the State. All consequential action be taken within a period of three months from the date of production of certified copy of the order. The pending application(s), if any, are also disposed of.