
(2010) 11 SHI CK 0358
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 2879 of 2008

Sh. Joginder Nath Syal

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 11-11-2010

Acts Referred:

Citation : (2010) 11 SHI CK 0358

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

Bench : Division Bench

Judgement

Kurian Joseph, C.J. 1. The petitioner has approached this Court challenging Annexure A1 and seeking promotion w.e.f. the date his juniors have been promoted.

2. In the reply at paragraph 6 (iii) to 6 (v), it is stated as follows:-

6(iii) In reply to this para, it is submitted that the promotions of SC/ST Officers/ Officials are governed by the guidelines contained in the Government of Himachal Pradesh letter dated 31st January, 1989, copy of which is annexed as Annexure R1. As per instructions, incumbents belonging to SC/ST categories are required to be given reservation as per their prescribed quota I.e. 15% for SC and 71/ 2 for ST on the cadre strength. When post (s) would be filled up further, SC/ST candidates will be promoted only when persons from their own category will vacate the post against which promotion is required to be made. However, the SC/ST candidates can be considered for promotion against the general vacancy if he becomes eligible for promotion by way of his original seniority and not by way of jumping seniority. In the light of the instructions, the applicant could not be considered for promotion to the post of Principal as the quota meant for SC had already exceeded its limit.

6(iv) That the applicant vide annexure A4 was informed tht Sh. Duni Chand, headmaster, High School, rishikesh (Bilaspur) is senior to him in the seniority list of Headmaster and seniority list may be consulted. It is submitted that the

Annexure A4 does not convey the meaning which the applicant has drawn in this para.

6(v) That the promotion to the post of Principal is made on the basis of senioritycummerit, subject to unfitness and not only on the basis of merit. It is submitted that the decision of this Hon''ble Administrative Tribunal is under challenge in the Hon''ble Supreme Court and the decision of the Hon''ble Supreme Court is awaited. On the basis of the decision of this Hon''ble Tribunal which is subjudice, no benefit can be extended to the applicant unless or until it is upheld by the Hon''ble Supreme Court.

3. In the above circumstances, this writ petition is disposed of as follows:-

Subject to the outcome of the order passed by the Supreme Court in the matter referred to in para 6 (v), it is open to the petitioner to approach first respondent and in which case, the first respondent will consider the matter and appropriate decision will be taken in accordance with law without discriminating the petitioner within four months. The consequential benefits, if any, for which the petitioner is found eligible shall also be disbursed to him within one month thereafter.