

(2010) 08 SHI CK 0146
In the High Court Of Himachal Pradesh

Sh. Pawan Kumar

APPELLANT

Vs

State of H.P. and Another

RESPONDENT

Date of Decision : 03-08-2010

Acts Referred:

Constitution of India, 1950 — Article 16

Citation : (2010) 08 SHI CK 0146

Hon'ble Judges : Surinder Singh, J

Bench : Single Bench

Judgement

Surinder Singh, J.—Petitioner is a Monument Attendant in the respondent Department of Languages, Arts and Culture. He is working in the said capacity w.e.f. 27.2.1988. Admittedly there is no promotion avenues to the categories of Monument Attendant as such he has sought direction by filing the present petition to formulate a Scheme.

2. Although the respondent-State has admitted this fact that there is no further promotional avenues yet, according to them, they are not bound to do so.

3. In Food Corporation of India and Others Vs. Parashotam Das Bansal and Others, apex Court observed that if there is no channel for promotion in respect of a particular group of officers resulting in stagnation over the years, the court although may not issue any direction as to in which manner a scheme should be formulated or by reason thereof interfere with the operation of existing channel of promotion to the officers working in different departments and officers of the Government but a direction can be issued by it to formulate the Scheme.

4. Further in A. Satyanarayana and Others Vs. S. Purushotham and Others, held that a mere chance of promotion is not a fundamental right but an employee has a right to be considered for promotion. In that view of the matter any policy whereby all promotional avenues to be promoted in respect of a category of employees for all times to come cannot be nullified and the same would be hit by Article 16 of the Constitution.

5. According to the learned Counsel for the respondents, the Recruitments and Promotion Rules for the post of the clerk provides for 10% by promotion from amongst the matriculate class-IV employees as per Annexure A9. Admittedly, the benefit has been given to class IV Peons and Gallery Attendant for promotion as clerks against 10% quota. Therefore, respondents may consider the case of the petitioner to include this category for promotion against the reserved quota of 10% for the post of clerk by framing appropriate Scheme.

6. In view of the above stated position, respondents may formulate an appropriate Scheme for providing the promotional avenues to such category within a period of four months from the receipt of the certified copy of this judgment. The petition stands disposed of in above terms along with pending application(s) if any.