
(2014) 01 SHI CK 0043
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 4802/2012

Shamsher Singh

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 10-01-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2014) 01 SHI CK 0043

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Advocate : Bhavna Dutta, Advocates for the Appellant; Parmod Thakur and Meenakshi Sharma, Addl. A.Gs, Advocates for the Respondent

Judgement

Rajiv Sharma, J.—Petitioner was engaged on 1.4.2003 as Beldar/Chowkidar in the Range Office at Nichar, District Kinnaur. Upper Satluj Valley Watershed Development Society was constituted vide notification 23.10.2002. The notification has been issued by the Principal Secretary (Forests) to the Government of Himachal Pradesh. Satluj Valley Watershed Development Society, Rampur, District Shimla was registered under Society Registration Act, 1860 on 16.11.2002. Since the petitioner had completed more than eight years" continuous service, he made a representation for his regularization. Respondent No. 3 recommended the case of petitioner on 27.10.2011. Respondent No. 3 sent communication to respondent No. 2 that there was no provision for regularization in Upper Satluj Valley Watershed Development Society, Rampur. The Principal Secretary (Forests) issued a notification dated 5.5.2012 whereby the society was ordered to cease to function latest by 30.6.2012 after finalization of accounts including audit and balance sheet for the year 2011-12. The balance funds, pertaining to the implementation of CAT plans etc. lying in the bank accounts of above said society, if any, were to be transferred to the bank account (CAMPA) of the Conservator of Forests, Rampur. Conservator of Forests, Rampur was directed to act as successor of the Satluj Valley Watershed Development Society, Rampur. He was made responsible for record keeping, accounts, audit and RTI

etc. The Catchment Area Treatment Plans (CAT Plans) and Compensatory Afforestation (CA) etc. of all Hydro Electric Projects in Satluj river basin were henceforth to be implemented through the concerned Conservator of Forests. Project Officer, SVWDS-cum-Divisional Forest Officer, CAT Plan Division, Nichar at Rampur issued 30 days notice to the petitioner for termination of engagement with Satluj Valley Watershed Development Society, Rampur. He was permitted to work upto 30.6.2012.

2. What emerges from the facts enumerated hereinabove is that petitioner was engaged on 1.4.2003 in Upper Satluj Valley Watershed Development Society. He has continuously worked and completed eight years continuous service with 240 days in each calendar year. His case was recommended by respondent No. 3 to respondent No. 2. However, the fact of the matter is that competent authority has taken a decision to wind up SVWDS vide notification dated 5.5.2012. Conservator of Forests has been made successor of SVWD Society. The notification, as noticed above, has been issued by the Principal Secretary (Forests).

3. Case of the respondents, in a nutshell, is that since the society has ceased to function, petitioner's services have rightly been terminated. This Court on 9.10.2012 has passed the following order:

"The respondent-State is directed to file a supplementary affidavit clarifying therein whether taking into consideration that the petitioner has served for 9 years, his services can be utilized in any other on going project or not, by the next date of hearing. List on 16.11.2012."

4. In sequel thereto, supplementary affidavit has been filed on the affidavit of Conservator of Forests, Rampur. According to him, one post of Chowkidar was lying vacant in Swan River (IWM) Project, Una and the services of petitioner can be utilized in Swan River (IWM) Project Una. The project period is upto 2015.

5. Petitioner has filed detailed reply to the supplementary affidavit filed on behalf of respondents. What emerges from the reply to supplementary affidavit is that the State Government has taken a conscious decision to re-engage six employees of contractual staff, who were working with Satluj Valley Watershed Development Society Project, Rampur w.e.f. 1.2.2013. The approval for re-engagement of contractual staff of SVWDS, Rampur has been accorded by the Principal Chief Conservator of Forests (HoFF) on 3.1.2013 vide Annexure P-5. In sequel to Annexure P-5, six employees of contractual staff have been re-engaged and their appointment letters have been placed on record by the petitioner vide Annexure P-5/A to P-5/E. These appointment letters have been issued by the Chief Conservator of Forests (T), Rampur. Since the decision has been taken to re-engage six employees of contractual staff, the same treatment ought to have been meted out to the petitioner. Petitioner has been working since 2003. He has completed more than ten years uninterrupted service. All the six employees of contractual staff were engaged in the year 2004. Their services were also

terminated with effect from 1.3.2013. They have been engaged in Upper Satluj Development Society, Rampur (now defunct). As per Annexure P-5/A, one of the appointment letters, issued to contractual appointees, terms and conditions of their re-engagement are laid down by the H.P. State Compensatory Afforestation Fund Management and Planning Authority (CAMPA). It is evident from the language employed in Annexure P-5/A that these six employees of contractual staff, who were working in Satluj Development Society, Rampur are now to be treated as employees of Forest Department. Petitioner deserves the same treatment for the purpose of re-engagement and regularization. The decision of respondents not to re-engage the petitioner at par with six employees of contractual staff is arbitrary and unreasonable. There is violation of Article 14 and 16 of the Constitution of India. A person who has worked for more than ten years has not been re-engaged and the persons engaged after the petitioner, have been reengaged. H.P. State Compensatory Afforestation Fund Management and Planning Authority (CAMPA) is integral part of the Forest Department. The work which was being performed by the society has not been taken over by CAMPA.

6. Ordinarily when the project is wound up, the persons engaged therein have no right to continue. However, in the instant case, though the project was wound up as stated hereinabove, the persons similarly situate have been re-engaged by the Forest Department.

7. Accordingly, in view of the discussion and analysis made hereinabove, the petition is allowed. Respondents are directed to re -engage the petitioner forthwith as Beldar and thereafter take all necessary steps towards the regularization of the petitioner in the Forest Department. Needful be done within a period of ten weeks from today. Pending application(s), if any, also stands disposed of. No costs.