

(2010) 11 SHI CK 0037
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 6391 of 2008

Shri Anoop Kumar

APPELLANT

Vs

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

RESPONDENT

Date of Decision : 11-11-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2010) 11 SHI CK 0037

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

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The writ petition is filed with the following prayers:

(i) That the promotion order of the Respondents 2 to 4 to the post of Assistant Engineers, issued on 11.4.1988 vide Annexure A-5 may kindly be quashed and set aside.

(ii) That the action of the Respondent-University in making promotions to the post of Assistant Engineers on 12.4.1988 (A-5), by ignoring the executive order dated 25.9.1973 and 16.3.1981 vide Annexures A-8 and A-9, may kindly be quashed and set aside.

(iii) That the Respondent-University may be directed to hold a review D.P.C. by considering the case of the applicant for promotion to the post of Assistant Engineers w.e.f. 11.4.1988 forthwith in accordance with law.

(iv) That the executive orders dated 16.11.1973 vide Annexure A-10, which treats the two unequals as equals, while making promotions to the selection post of Assistant Engineers may kindly be declared ultra vires Articles 14 and 16 of the Constitution of India and may kindly be quashed and set aside.

(v) That the promotion of the Respondents 2 to 4 to the post of Assistant Engineers issued on 11.4.1988 may also be quashed and set aside.

(vi) Or in the alternative, the Respondent-University may be directed to consider

the case of the applicant for promotion to the post of Assistant Engineer against the vacancies either w.e.f. 8/88 or 7/89 during the validity of the panel prepared by D.P.C. on 6.8.1988 (A-4) forthwith.

2. Though several contentions are taken, the main thrust of the arguments pertains to the claim for the vacancy, which arose after April, 1988. According to the Petitioner, even after filling up six posts by the D.P.C., since there were subsequent vacancies and D.P.C. having screened found the Petitioner eligible, it is claimed that the Petitioner should have been considered for appointment for one of the vacancies, which arose after the D.P.C. This aspect of the matter is not seen referred to in the proceedings. Therefore, this writ petition is disposed of as follows:

The Petitioner may point out his entitlement in terms of subsequent developments, as above, before the first Respondent, in which case the matter will be duly considered by the first Respondent with reference to the factual position. In case the Petitioner is otherwise qualified and eligible, subject to availability of vacancy, appropriate action will be taken in the matter in accordance with law within a period of four months. The consequential benefits, if any, to which the Petitioner is found eligible, the same shall also be disbursed to him after another period of two months.