
(2012) 11 SHI CK 0046
In the High Court Of Himachal Pradesh
Case No : CWP No. 10473 of 2011-H

Shri Dina Nath

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 07-11-2012

Acts Referred:

Citation : (2012) 11 SHI CK 0046

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : Tek Chand Sharma, for the Appellant; R.M. Bisht, D.A.G., for the Respondent

Judgement

Sanjay Karol, Judge

1. Petitioner's father died in harness. He was working with the Public Works Department, Government of Himachal Pradesh. The State Government has framed a policy for giving appointment to the wards of such deceased employees, on compassionate basis. Discretion to give appointment vests with the Government. It is not in dispute that the petitioner applied for appointment, on compassionate basis. Petitioner's application was processed and he was appointed as a daily-waged Beldar w.e.f. 22.10.2007. Since then the petitioner has been discharging his duties of a Class-III post.

2. It is the grievance of the petitioner that even though, in accordance with the Rules, he was fully eligible for appointment to Class-III post, which post was in fact lying vacant, as on the date of the presentation of the application, complete in all respects, yet the respondents considered his case and appointed him as a Beldar, which is a Class-IV post. In any event, this fact can be got verified by the appropriate authorities. The respondents, while considering the petitioner's application and taking decision thereupon, have not assigned any reason for not considering the petitioner's case for appointment to a Class-III post.

3. Mr. Tek Chand Sharma, learned counsel for the petitioner, has placed on

record the information obtained under the Right to Information Act, evidencing the fact that Class-III posts were in fact lying vacant at the relevant time. Also, my specific attention is invited to the decision dated 3.8.2011 (Annexure P-3) taken by the authorities itself with respect to a similarly situated employee, who had also approached this Court and vide judgment dated 12.11.2009, passed in CWP(T) No. 15008/2008, titled as Nagender Singh versus State of Himachal Pradesh and others, this Court had directed the respondents-authorities to consider his case and pursuant to which, the Department has given him appointment as a Clerk instead of Beldar.

4. It is urged by the respondents that the petitioner had applied only for Class-IV post.

5. A perusal of the record only shows that the petitioner had in fact applied for the post of a Store Clerk, which is a Class-III post. The same was scored off and written as Store Chowkidar, which is a Class-IV post. Petitioner has explained the circumstances under which he was compelled to do so, which explanation seems to be plausible for the simple reason that his case was in fact recommended for the post of a Store Clerk by the recommending Officer. Who made the cuttings in the application is not evident. But then this fact itself is not relevant. Under these circumstances, the petitioner's case is to be considered for a Class-III post, in lines with the decision taken by the Department, with regard to similarly situated persons. Ordered accordingly. Petitioner undertakes not to claim monetary benefits as also the seniority over and above the persons, who already stand appointed to Class-III posts. The respondents shall consider the petitioner's case and take a decision thereupon, in accordance with law, within a period of two months from the date of production of certified copy of this order.

Writ petition stands disposed of. Pending application, if any, also stands disposed of.