

(2012) 03 SHI CK 0014
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 13308 of 2008

Shri Karam Dass	Vs	APPELLANT
State of Himachal Pradesh		RESPONDENT

Date of Decision : 16-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0014

Hon'ble Judges : Dharam Chand Chaudhary, J

Bench : Single Bench

Advocate : V.D. Khidtta, for the Appellant; J.K. Verma, D.A.G. for respondents No. 1 to 3 and Mr. D.K. Khanna, Advocate for respondent No. 4., for the Respondent

Final Decision : Allowed

Judgement

Justice Dharam Chand Chaudhary, Judge

1. The petition has been filed with the following prayers:-

(i) That the appointment/regularization of respondent No.4 as regular Class-IV sweeper made on 21.10.2005 by respondent No.3 and vide order dated 19.10.2005 by respondent No.2, may kindly be quashed and set aside.

(ii) That respondents No.1 to 3 may kindly be directed to consider the candidature of the applicant who is senior and give him appointment as regular Class-IV sweeper w.e.f. 21.10.2005, on which date respondent No.4 has been made regular with consequential including financial, seniority benefits etc.

The petitioner herein was engaged on part time basis as Class-IV Safai Karamchari by the respondents and deployed as such in Ayurvedic Dispensary, Kharot, District Shimla.

2. The only grievance of the petitioner is that the 4th respondent though junior to him, has been appointed as Class-IV Safai Karamchari on regular basis vide office order dated 21.10.2005 Annexure A-4, by the 3rd respondent whereas he

has not been regularized despite being called upon vide letter dated 31.8.1999 Annexure A-3 to appear in interview for regularization of his services. After the appointment of respondent No.4 as Safai Karamchari on regular basis vide order Annexure A-4, he has made representation Annexure A-5 to the respondent, however, no action has been taken so far.

3. In reply to the petition, the respondents did not dispute the engagement of the petitioner as Safai Karamchari on part time basis w.e.f. 7.6.1988 and his deployment as such in Ayurvedic Dispensary, Kharot, District Shimla. It is also admitted that the services of respondent No.4 were regularized vide order dated 21.10.2005 Annexure A-4, however, as part time Class-IV, in accordance with the seniority of part time Class-IV worker, whereas the applicant, who is at serial No.105 of the seniority list of part time Safai Karamchari could not be regularized as there were only 93 posts available in the department. It is, however, submitted that the petitioner would also be considered for regularization on his turn and in accordance with his seniority.

4. On hearing learned counsel on both sides and going through the record, for the reasons to be recorded here-in-below, the present is a fit case where the 2nd and 3rd respondent are required to be directed to consider the case of the petitioner firstly to deploy him as Class-IV Safai Karamchari on daily wage basis and thereafter to bring him on work charge/regular establishment in the department as Class-IV Safai Karamchari as per policy(ies) framed by the Government from time to time.

5. As noticed hereinabove, the petitioner admittedly was engaged as Safai Karamchari on part time basis on 7.6.1988. Although he has assailed the order Annexure A-4 whereby the services of the 4th respondent have been regularized yet without any justifiable cause as the said respondent was initially engaged as Class-IV worker and not Safai Karamchari. The category of the 4th respondent is different to that of the petitioner. The case of the petitioner for regularization was under consideration of the respondents as has come in para 2 of preliminary submissions in reply to the petition filed on behalf of respondents 1 to 3. Only 93 part time Safai Karamchari could be regularized so far and as regards the petitioner who being at Serial No.105 of the seniority list would also be considered for regularization on his turn and in accordance with his seniority. It is in this view of the matter only a direction to the 2nd and 3rd respondent to consider the case of the petitioner for regularization as Safai Karamchari, if not already regularized in accordance with the policy(ies) framed by the State Government from time to time is warranted in this case.

6. In the light of what is stated hereinabove, this petition succeeds partly and the same is accordingly allowed. Consequently, there will be a direction to the 2nd and 3rd respondent to consider the case of the petitioner for regularization as Safai Karamchari, with all consequential benefits, in case he is not already regularized, within three months from the date of production of a copy of this judgment by him before the said respondents. With the above observations, the

writ petition stands finally disposed of, so also the pending application(s), if any.