

(2010) 10 SHI CK 0033
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 2215 of 2008

Shri Suresh Kumar

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 28-10-2010

Acts Referred:

Citation : (2010) 10 SHI CK 0033

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

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The writ petition has been filed with the following prayer:

(i) That Rule 5(1) of the Demolished Armed Forces Personnel (Reservation of Vacancies in Himachal Pradesh State Non-Technical Services) Rules, 1972 may be held ultra vires to the Constitution and be quashed and set aside.

(ii) That the benefit of seniority granted to Respondents 4 to 49 on the basis of the said impugned Rule may be withdrawn and the seniority list be framed afresh.

(iii) That Respondents No. 1 to 3 may be directed to give to Respondents 4 to 49 the benefit of seniority as Lecturers (School Cadre) only with effect from the dates they were actually appointed as Lecturer (School Cadre).

(iv) That the Respondents may also be directed to withdraw promotion of Respondents 4 to 49 to Class II (Gazetted) posts given vide Notification dated 29.10.93. They may further be restrained from giving any postings to the said Respondents on the basis of their promotions made vide Notification dated 29.10.93, and to this extent the Notification dated 29.10.93 may be quashed and set aside.

(v) That the Respondents may be directed to place on record the dates/years in which Respondents 4 to 49 on/in acquired the minimum educational qualifications of Post Graduation making them eligible for appointment as Lecturer (School Cadre).

(vi) That the Respondents 1 to 3 may be directed to submit the details about Respondents No. 4 to 49 as to whether the said Respondents have deposited the retiral benefits given to them by the Army before getting civil employment and before getting the benefit of pay fixation and seniority under Rule 5 of the Rules of 1972.

2. The issue in principle has been considered by this Court leading to a judgment in V.K. Behal and Ors. v. State of H.P. and Ors. HLJ 2009 (HP) 402. Therefore, the matter requires reconsideration. Hence, there will be a direction to the first Respondent to consider the matter afresh in the light of the decision, referred to above, with notice to the Petitioners and the private Respondents and appropriate action in the light of the judgment, referred to above shall be taken within a period of four months from the date of production of a copy of this judgment by the Petitioner.

3. With these observations, writ petition stands disposed of, so also the pending application(s), if any.