
(2009) 07 SHI CK 0032
In the High Court Of Himachal Pradesh

Smt. Usha Devi Nanda

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 03-07-2009

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2009) 3 ShimLC 180

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—The petitioner was appointed as a Junior Basic Trained Teacher on 11.8.1956. She was promoted to the post of Head Teacher on 10.6.1985. She was further promoted to the post of Central Head Teacher on 4.9.1992. She has been ignored for the post of Block Primary Education Officer.

2. Mr. K.C. Sankhyan, Advocate has strenuously argued that the petitioner was senior to respondent No. 4 as per the corrigendum issued on 14.9.1995 and could not be ignored for promotion to the post of Block Primary Education Officer. He further contended that the petitioner has been assigned Sr. No. 116-A by way of corrigendum and respondent No. 4 was at Sr. No. 137.

3. Mr. R.K. Sharma, learned Senior Additional Advocate General and Mr. K.S. Banyal, Advocate have vehemently argued that the petitioner was not in possession of minimum essential qualification. They have justified the action of the respondent-State.

4. I have heard the learned Counsel for the parties and have perused the pleadings carefully.

5. The petitioner was appointed as Junior Basic Trained Teacher on 11.8.1956. The respondent-department has issued temporary seniority list of Junior Basic Trained Teachers (Provincialised Cadre) as it stood on 31.12.1993. She was at Sr.

No. 146 in the seniority list. However, on the basis of corrigendum issued on 14.9.1995, the petitioner was allotted new Sr. No. 116-A. Respondent No. 4 was at Sr. No. 137. The petitioner ranked senior to respondent No. 4 after the issuance of corrigendum on 14.9.1995. The respondent-department promoted respondent No. 4 to the post of Block Primary Education Officer on 19.11.1995. The petitioner was not considered for promotion to the post of Block Primary Education Officer. The ground assigned in the reply filed by the respondent-department for non-consideration of the petitioner is that she was not in possession of minimum qualification. A bare perusal of seniority lists Annexures A-1 and A-2 reveals that the petitioner is matriculate with Junior Basic Trained Teacher. In view of this, the reply filed by the respondent-department is contrary to the record. She was fully eligible to be considered for promotion to the post of Block Primary Education Officer before respondent No. 4. Her seniority has been corrected before respondent No. 4 was promoted. She has been assigned new seniority vide corrigendum dated 14.9.1995 and respondent No. 4 has been promoted on 19.11.1995. The petitioner had right under Article 14 of the Constitution of India to be considered for promotion to the post of Block Primary Education Officer on the basis of newly assigned seniority. She has been wrongly ignored by the respondent-department for promotion to the post of Block Primary Education Officer.

6. Accordingly, in view of the observations made hereinabove, it is held that the petitioner was fully eligible and qualified for promotion to the post of Block Primary Education Officer before respondent No. 4. She was senior to respondent No. 4.

7. Consequently, the petition is allowed. The respondents are directed to consider the case of the petitioner for promotion to the post of Block Primary Education Officer within a period of six weeks from today. She will be held entitled to all the consequential benefits of seniority, arrears of salary from the date her junior respondent No. 4 was promoted etc. The petitioner is held entitled to costs, which are quantified at Rs. 3000.