
(2020) 09 SHI CK 0442
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 5148 Of 2019

Sohan Lal

APPELLANT

Vs

State Of Himachal Pradesh And Another

RESPONDENT

Date of Decision : 29-09-2020

Acts Referred:

Citation : (2020) 09 SHI CK 0442

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Dalip K. Sharma, Sudhir Bhatnagar, Arvind Sharma, Kunal Thakur, Vasu Sood

Final Decision : Allowed

Judgement

Sandeep Sharma, J

1. Being aggrieved and dissatisfied with order dated 3.1.2013 passed by respondent No.2, whereby Board of Directors, on the recommendations of the Service Appeal Committee, decided to reduce the penalty of withholding two annual increments with cumulative effect in place of three increments, petitioner filed a representation/appeal before Principal Secretary (Food, Civil Supplies and Consumer Affairs) (Annexure A-11), but since same came to be rejected on the ground of limitation, vide order dated 4.5.2013 passed by Principal Secretary (Food, Civil Supplies and Consumer Affairs) to the Government of Himachal Pradesh, petitioner approached erstwhile Himachal Pradesh Administrative Tribunal by way of OA No. 517 of 2015, which now stands transferred to this Court and re-registered as CWPOA no. 5148 of 2019, praying therein for following reliefs:

"(i) To quash and set-aside the orders dated 3.5.2013, 19.1.2012 and order dated 3.1.2013 passed by the respondents exercising powers of appellate Authority being unjust, illegal, arbitrary and further to direct the dropping of the disciplinary proceedings against the applicant and further the applicant be

exonerated from the charges leveled against him and the applicant may be held entitled for all consequential benefits in the interest of law and justice with all the benefits incidental thereof such as back wages, pension , seniority and pay fixation with interest."

15. Having heard learned counsel for the parties and perused the material available on record, this Court finds that by way of representation/appeal, petitioner laid challenge to order dated 3.1.2013 passed by the Board of Directors/Managing Director exercising power of appellate authority, but same came to be disposed of vide order dated 4.5.2013 by way of a non-speaking order. Bare perusal of order dated 4.5.2013, nowhere suggest that the authority while dismissing representation/appeal filed by the petitioner, being time barred, took into consideration explanation rendered on record by the petitioner qua delay in maintaining the representation/appeal against order passed by Managing Director. It is not in dispute that the Managing Director exercising power of appellate authority of Himachal Pradesh State Civil Supplies Corporation, passed order dated 3.1.2013 as such, authority concerned, while passing order dated 4.5.2013, ought to have specified in the order the period, within which appeal/revision against order passed by Managing Director, could have been filed.

2. Leaving everything aside, order dated 4.5.2013 by not stretch of imagination, can be said to be a speaking order, because the authority concerned, without assigning any reason or without quoting any provision of law, which provides for limitation, proceeded to reject the representation/appeal of the petitioner, as such, on this sole ground, order dated 4.5.2013 deserves to be quashed and set aside.

3. Consequently, in view of above present petition is allowed. Order dated 4.5.2013 (Annexure A-12) is quashed and set aside. Respondent No.1 is directed to decide the representation/appeal, Annexure A-11, afresh by affording opportunity of hearing to the petitioner, expeditiously, preferably within a period of eight weeks from today. Learned Additional Advocate General undertakes to apprise the authority concerned with regard to passing of instant judgment, enabling it to do the needful in terms thereof.

All pending applications also stand disposed of.