

(2023) 08 SHI CK 0031

In the High Court Of Himachal Pradesh

Case No : Latter Patent Appeals No. 93 Of 2023

State Of Himachal Pradesh & Others

APPELLANT

Vs

Ramesh Chand

RESPONDENT

Date of Decision : 03-08-2023

Acts Referred:

Citation : (2023) 08 SHI CK 0031

Hon'ble Judges : M.S. Ramachandra Rao, CJ;Ajay Mohan Goel, J

Bench : Division Bench

Advocate : Anup Rattan, Rakesh Dhaulta, Pranay Pratap Singh, Arsh Rattan, Sidharth Jalta

Final Decision : Allowed

Judgement

M.S. Ramachandra Rao, CJ

1. This Letters Patent Appeal is preferred by the State challenging order dt. 14.09.2012, passed by learned Single Judge of this Court in CWP No.7083 of 2012, titled as Ramesh Chand Versus State of Himachal Pradesh & others.

2. The respondent claimed that his father was a regular beldar who died in harness on 14.10.2000 and he should be granted compassionate appointment on regular basis from 26.10.2005, from which date he was only granted compassionate appointment as a daily wage beldar.

3. Learned Single Judge without awaiting any reply from the appellants, allowed the writ petition by placing reliance on the decision in CWP No.16006 of 2008, titled as Jamaldeen Versus State of H.P. and others, decided on 04.07.2011 and Krishna Kumari Versus State of Haryana and others, 2012(4) SLR 481 (pb.& Hry).

4. In this appeal, the appellants contended that the father of the respondent had only been appointed on daily wage basis initially on 24.11.1990 and later he was conferred work charge status from 24.11.1990 and he died on 14.10.2000 before his services were regularized as a beldar. This is not disputed by the respondent

and no material is placed by the respondent to show that the father of the respondent at the time of his death was a regular beldar.

5. As per the policy dt. 18.01.1990 framed by the appellants for compassionate appointment, if a daily wage employee had died in harness after rendering five years service with not less than 240 days as daily wage basis in a year, his family members would be given compassionate appointment on daily wage basis only.

6. This was subsequently modified on 16.08.2005 providing for compassionate appointment even to the wards of deceased work charge beldars in addition to daily wage beldars subject to completion of seven years continuous service prior to the death of the employees. Immediately after this policy was introduced, the respondent was offered appointment on 26.10.2005 as a daily wage beldar and it is not disputed that his services were also regularized on 01.10.2013.

7. When there is no policy providing for appointment on compassionate basis regularly to family members of deceased daily wage employees/ work charge employees, the respondent cannot seek such appointment from 26.10.2005.

8. Therefore, learned Single Judge erred in granting him relief of regular appointment as a beldar from his initial date of appointment from 26.10.2005 with all consequential benefits.

9. Accordingly, the appeal is allowed and said judgment of the learned Single Judge is set aside. No order as to costs.

10. Pending miscellaneous applications, if any, also stand disposed of.