
(2020) 09 SHI CK 0123

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 1774 Of 2020

State Of H.P. And Ors

APPELLANT

Vs

Rattani Devi And Anr

RESPONDENT

Date of Decision : 01-09-2020

Acts Referred:

Citation : (2020) 09 SHI CK 0123

Hon'ble Judges : Tarlok Singh Chauhan, J;Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Ashok Sharma, Vikas Rathore, Vinod Thakur, Desh Raj Thakur, Seema Sharma, Svaneel Jaswal, Surinder Saklani

Final Decision : Dismissed

Judgement

Tarlok Singh Chauhan, J

1. The instant petition is directed against the order dated 12.7.2019 passed by the erstwhile H.P. Administrative Tribunal, whereby it allowed the application (T.A. No. 4900/2015) preferred by the respondent and directed the petitioners-State to grant annual increments to the late husband of the respondent from 1992 to 2008 and fix his pay and on the basis of re-fixation of his pay, release pensionary benefits to the respondent from the date of death of her husband with interest @ 9% per annum within three months.

2. The facts are not in dispute.

3. The husband of the respondent was appointed as Steno Typist in the Department of Planning vide memorandum, dated 8.12.1986. He was promoted as Junior Scale Stenographer vide office order dated 11.10.1991 and confirmed on that post w.e.f. 17.7.1992. He was not granted annual increments during period 1992 to 2008. He died in harness on 17.12.2008. The respondent thereafter approached the Tribunal for grant of annual increments for the period 1992 to 2008.

4. The petitioners-State contested claim of the respondent solely on the ground that her husband had failed to qualify the typing test and was, therefore, not granted annual increment as it was one of the essential conditions of his appointment.

5. Now, the moot question is whether husband of the respondent after having been confirmed against the post of Junior Scale Stenographer w.e.f. 17.7.1992 could have been denied annual increments only on the ground that he had failed to qualify the typing test.

6. It is not in dispute that the husband of the respondent was promoted as Junior Scale Stenographer vide office order, dated 11.10.1991 and it was only after successful completion of the probation period that the husband of the respondent was confirmed against the post of Junior Scale Stenographer.

7. There are certain consequences flowing out of confirmation and one of those is that it is only after confirmation that one can said to be holding the post on substantive basis. Before confirmation, the probationer has no right to hold the post and on confirmation he attains a substantive status and all incidents of such status are immediately attracted.

8. As observed above, it is only after completion of probation period successfully that an employee can be said to be entitled for confirmation. Thus, it is too late in the day for the petitioners-State to oppose claim of the respondent or else the State should not have confirmed the husband of the respondent.

9. In this background, no fault can be found with the impugned order, whereby the learned Tribunal held that "the condition of qualifying typing test had become meaningless after promotion of the husband of the respondent. Therefore, the petitioners-State ought to have considered non-grant of promotion for not qualifying the test at the appropriate time, which has not been done by them".

10 In view of the aforesaid discussion, we find no merit in the instant petition and the same is accordingly dismissed, so also the pending application(s), if any.