
(2021) 05 SHI CK 0112

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 1413 Of 2021

State Of H.P. And Others

APPELLANT

Vs

Rajesh Kumar

RESPONDENT

Date of Decision : 12-05-2021

Acts Referred:

Citation : (2021) 05 SHI CK 0112

Hon'ble Judges : Sureshwar Thakur, J;Sandeep Sharma, J

Bench : Division Bench

Advocate : Ashwani Sharma, Tek Chand Sharma

Final Decision : Dismissed

Judgement

Sureshwar Thakur, J

1. The state of H.P., becoming aggrieved by a decision made by the erstwhile H.P. Administrative Tribunal, on 14.6.2019, upon OA(M) No. 147 of

2017, has proceeded to assail it, through its instituting, before this Court, the instant writ petition.

2. Without going deep into the merits of the case, it is suffice to extract the operative part of the apposite order, paragraph-3 whereof reads as under:

“Consequently, the original application is allowed and the respondents are directed to consider the case of the applicant for promotion to the post of

Head Constable in terms of the standing order dated 29.5.2003, Annexure A-4, within two months from the date of production of certified copy of this

Order. However, the respondents are at liberty to carry out necessary amendments in rules in accordance with law.”

3. A plain reading of the clear and unequivocal coinage, as carried therein, does, explicitly convey that therethrough, no imperative mandamus has

been rendered against the writ petitioner, to grant relief to the respondents, as became canvassed in OA(M) No. 147 of 2017. Contrarily, it is merely a direction upon the respondents therein to consider the claim of the respondent herein, for promotion to the post of Head Constable, in terms of the standing order, of, 29.5.2003.

4. Necessarily, the petitioners were under a legal obligation, to proceed to make a speaking order, hence delineating therein reasons, in considering the case of the respondent , for his being promoted to the post of Head Constable, only if it falls, within the terms of the standing order, of, 29.5.2003.

However, the department concerned, has thought it extremely cumbersome to engage itself, in the process of reading thoroughly, the afore extracted

portion of the order made by the learned erstwhile H.P. Administrative Tribunal, and also has proceeded to abandon its legal obligation, to pass a

speaking/reasoned order, hence may be if deemed sagacious, containing therein all the grounds, as carried in the extant writ petition. The filing of the

extant writ petition was hence wholly un-necessary, and was also avoidable, upon the writ petitioner concerned, rather proceeding to make an incisive

reading of the afore extracted portion of the order, as, made by the learned erstwhile H.P. Administrative Tribunal, and thereafter its proceeding to,

after making a thorough application of mind to the standing order, of 29.5.2003, and if stands repealed, to mention therein, in its speaking decision, that

the case of the respondent herein was not covered within the apposite order, and, hence, if deemed legally wise, may even have proceeded to reject

the claim of the respondent. The aggrieved therefrom, may thereafter, hold the remedy, of, his motioning this Court. The recouring(s), of, the writ

remedy, by the writ petitioners concerned, is not appreciated, and they are reminded, and cautioned, that hereafter the consideration orders be ensured

to be complied with. The writ petitioners concerned are directed to, within three weeks, pass a speaking order, and yet only after the department

concerned, affording an opportunity of personal hearing to the respondent herein. Any aggrieved therefrom may recourse the appropriate remedy.

5. Consequently, there is no merit in the petition and the same is dismissed. Also, the pending application(s), if any, are also disposed of. No costs.