
(2009) 08 SHI CK 0008
In the High Court Of Himachal Pradesh

State of H.P. and Others

APPELLANT

Vs

Sh. Jagjit Raj

RESPONDENT

Date of Decision : 04-08-2009

Acts Referred:

Himachal Pradesh Police Service Rules, 1973 — Rule 2(k), 6

Citation : (2009) 08 SHI CK 0008

Hon'ble Judges : Surinder Singh, J;Deepak Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—This writ petition by the State is directed against the order passed by the H.P State Administrative Tribunal in O.A No. 3871 of 2000 whereby it was held that the respondent was eligible to be promoted as Deputy Superintendent of Police.

2. Briefly stated the facts of the case are that the respondent filed an original application before the erstwhile H.P State Administrative Tribunal being O.A No. 3871 of 2000 in which he prayed that he was entitled to be considered for promotion as Deputy Superintendent of Police w.e.f. 31.8.1989.

3. The respondent was recruited as Constable (Clerk) in the Police Department on 22.10.1997. On 31.8.1987 he was promoted as Inspector and confirmed as such w.e.f. 20.12.1990. The applicant claims that he was eligible for being promoted as Deputy Superintendent of Police in accordance with Rule 6 of the H.P Police Service Rules, 1973 after he had completed two years continuous service as Inspector. Reliance by the applicant was placed on a Judgement delivered by a Division Bench of the erstwhile Tribunal in O.A No. 398 of 1988. Rule 6 of the Rules of the H.P Police Service Rules, 1973 reads as follows:

6. Method of recruitment:- (1) Recruitment to the service shall be made in the following manner:

(a) 40 per cent by direct recruitment, and

(b) 60 per cent from Inspector who are substantively borne on their respective cadres and have two years continuous service in the grades both officiating and substantive.

4. A perusal of the Rules clearly show that two modes of recruitments are provided for the post of Deputy Superintendent of Police. 40 per cent of the posts are to be filled in by direct recruitment and 60 per cent by promotion from amongst Inspectors who were substantively borne on their respective cadres and have two years continuous service in the grade. This service can be officiating or substantive. The stand of the respondent is that since the petitioner was borne on the clerical side he is not eligible for such promotion. Inspector has been defined u/s 2(k) of the 1973 Rules to mean Inspector of Police. No distinction has been made in the Rules between Inspectors in the Clerical Cadre or the Executive Cadre. The stand of the State that only the Inspectors in the Executive Cadre could be promoted is not supported by the Rules.

5. It is apparent that the petitioner-State itself was aware of this difficulty and, therefore, w.e.f. November 11, 1994 Rules have been amended and now the promotion quota is to be filled in as follows:

(c) 60 per cent from substantive Inspectors who have passed the Upper School Course from Police Training college and have two years continuous service in the rank of Inspector (both Officiating and substantive). Provided their minimum educational qualification is BA.

6. The condition of having pass the Upper School Course did not exist in the 1973 Rules and has only been brought in by the amendment of 1994. The petitioner became eligible for promotion in the year 1989 much before the amendment of the Rules.

7. In view of the above discussion, we find that the original application filed by the petitioner was rightly allowed by the respondent. We find no reason to interfere with the order of the Tribunal. The petition being without any merit is dismissed.