
(2020) 08 SHI CK 0272
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 800 Of 2019

Suresh Kumar

APPELLANT

Vs

State Of HP And Others

RESPONDENT

Date of Decision : 05-08-2020

Acts Referred:

Citation : (2020) 08 SHI CK 0272

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Prem P. Chauhan, Sanjeev Sood, Gaurav Sharma

Final Decision : Disposed Of

Judgement

Sandeep Sharma, J

1. Precisely, facts of the case as emerge from the record are that the petitioner after having rendered sixteen years service in Indian Army was

discharged from Indian Army on 31.1.2002, which entitled him for the benefits of being termed as an Ex-Serviceman. After discharge from the Indian

Army, petitioner got himself registered with Ex-servicemen Employment Cell, Himachal Pradesh, Directorate of Sainik Welfare, Himachal Pradesh,

H.P., for re-settlement and re-employment in the State of Himachal Pradesh. On 26.5.2003, Selection Committee-cum-Ex-servicemen Employment

Cell, Hamirpur, interviewed the petitioner for the post of Lecturer (School Cadre). Subsequently, on 7.6.2003, Ex-servicemen Cell sponsored the name

of the petitioner in response to the requisition of the respondent-department for the post of Lecturer with request to give appointment to the petitioner

within a period of 10-15 days, however fact remains that the petitioner was issued appointment letter by the respondent-department on 27.10.2005

(Annexure P-1), thus, depriving him from pensionary benefits under Central Civil Services (Pension) Rules. In the aforesaid background, petitioner has

approached this Court in the instant proceedings filed under Art. 226 of the Constitution of India, praying therein for following main relief(s):-

â??(a) To issue a writ of mandamus, appropriate writ, order or direction in nature thereof, directing the respondent No.3 to have sponsored the name

of the petitioner within 15 days from the date of selection of the petitioner for the post of Lecturer School Cadre and thereafter deem the petitioner to

have been appointed within next 15 days for all purposes and intents entitling the petitioner for benefits under CCS (Pension) Rules, 1972 as prior to

issuance of notification dated 15.05.2003 with all the consequential benefits and deduction of my CPF may kindly be stopped forthwith.â??

2. Having heard learned Counsel appearing for the parties and perused the material available on record, especially reply filed by the respondents Nos.

1 and 2, this Court finds that vide order dated 8.6.2012, Annexure R-2, annexed with the reply filed by respondents Nos. 1 and 2, petitioner has been

already ordered to be deemed to have been appointed as a Lecturer (School Cadre) with effect from 22.6.2003 on notional basis, instead of earlier

date i.e. 27.10.2005. In view of above, relief sought by the petitioner to the extent of treating him to have been appointed within 15 days of selection

process, stands already granted to him, as such, same has become redundant.

3. So far second part of prayer, i.e. entitling the petitioner to the benefits of CCS (Pension) Rules, 1972 is concerned, it may be observed here that the

name of the petitioner was sponsored on 7.6.2003 by the Directorate of Sainik Welfare to the Director of Education and vide annexure R-2 of the

reply filed by respondents Nos. 1 and 2, petitioner has been deemed to be an appointee of 22.6.2003, as such, in no case the petitioner can be covered

under the CCS (Pension) Rules, 1972 since the said scheme /Rules stood discontinued vide Notification dated 15.5.2003, as such, CCS (Pension)

Rules, cannot be made applicable to any appointment made thereafter. Thus, the second part of the prayer sought by the petitioner cannot be allowed.

4. In view of above, the petition stands disposed of in the aforesaid terms, alongwith all pending applications.