
(2011) 02 SHI CK 0026
In the High Court Of Himachal Pradesh
Case No : CWP No. 733 of 2011

Suresh Kumar Gupta

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 24-02-2011

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2011) 02 SHI CK 0026

Hon'ble Judges : Kurian Joseph, C.J.;V.K. Ahuja, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The writ petition is filed with the followings prayers:

i) That the action of the Respondents in neither considering nor promoting the Petitioner as an Assistant Professor (Surgery) by not holding the DPC/DSC till day; but in holding the same for other specialties on 19.1.2011 (Annexure P-7); may kindly be held as discriminatory, illegal, violative of Articles 14 and 16 of the Constitution of India forthwith.

ii) That the Respondents may be directed to consider and promote the Petitioner as an Assistant Professor (Surgery) w.e.f. the date of his entitlement in March/April 2010 or w.e.f. the date incumbents in other specialties were promoted on 19.1.2011 (Annexure P-7) whichever is beneficial: with all the consequential benefits forthwith.

iii) That the action of Respondent No. 3 in issuing an improper Registrarship Completion Certification on 24.11.2009 (Annexure P-5) despite directions given by the Respondent No. 1 dated 20.11.2010 (Annexure P-9) and 2.2.2011 (Annexure P-10) to issue proper certificate; in adopting a different yardstick qua the Petitioner by deviating from the settled past practice when, the period of leave has been treated as part of tenure and teaching experience as Registrar in case of other in-service MO/GDO's/Member of HPCMS doing Registrarship vide Annexures P-13 to P-16 and some of them were promoted as Assistant Professor

also vide Annexure P-12; by applying notification dated 4.12.2009 (Annexure P-11) to the disadvantage of the Petitioner illegally; with the malafide intention to delay the issuance of proper certificate so that the DPC was delayed and ineligible incumbents become eligible; when such improper certificate deserves to be ignored/set-aside for the purpose of promotion of the Petitioner forthwith.

2. The learned Counsel for the Petitioner submits that the first Respondent may be directed to consider Annexure P-8 representation with reference to all the contentions taken therein and also the submissions made in this writ petition. In that view of the matter, we do not propose to express any opinion as to the merits of the case. The writ petition is disposed directing the first Respondent to look into Annexure P-8 and also other submissions made in the writ petition on facts and take appropriate action thereon in accordance with law within a period of two months from the date of production of a copy of this judgment alongwith a copy of the writ petition by the Petitioner. In case any selection is made in the meanwhile, the same shall be subject to the result of the decision thus taken by the first Respondent and it shall be so made clear in the proceedings. In case, the Petitioner requests for an opportunity of personal hearing, the same shall also be granted.

3. In view of the final disposal of the main petition, all the pending applications also stand disposed of.