

(2005) 05 SHI CK 0039
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 70 of 1999

The Block Development Officer	Vs	APPELLANT
Rajesh Vyas and Others		RESPONDENT

Date of Decision : 06-05-2005

Acts Referred:

Citation : (2005) 3 ShimLC 372

Hon'ble Judges : Surjit Singh, J;Arun Kumar Goel, J

Bench : Division Bench

Advocate : M.S. Chandel, General, H.K. Bhardwaj and P.M. Negi, Assistant Advocate General, for the Appellant; Y.P.S. Dhaulta, for the Respondent

Judgement

Arun Kumar Goel, J.—Petitioners are aggrieved from the order of H.P. Administrative Tribunal, Shimla dated 22nd May, 1998, in OA No. (D)-16/98. By means of impugned order the Petitioners, (they were Respondents before the Tribunal), have been directed to re-engage the Respondent in the same capacity in which he was working at the time of his termination. His period of absence between dis-engagement and re-engagement was to be counted for the purpose of seniority and he was held not entitled for back wages for the period he remained absent. Respondents were further directed not to terminate his services except in accordance with law.

2. We have examined the pleadings of the parties before the Tribunal. Petitioner claimed that he was terminated without following the provisions of Industrial Disputes Act, therefore, he was entitled to the relief of re-engagement etc. as claimed in his O.A. On the other hand, stand of the Petitioners was that engagement of Respondent No. 1 was under a particular scheme namely "Kangra Towards Self Reliance". This scheme was for three years. After it came to an end, Petitioner was dis-engaged with effect from 1st November, 1997. That being the position the impugned order of the Tribunal was unjust, illegal besides being contrary to law. A perusal of the impugned order shows that its brevity is its beauty without having legally examined pleas raised in the pleadings. Order in

our view is cryptic.

3. Faced with such a situation, an attempt was made by the learned Counsel for the Respondent to persuade the Court that impugned order does not suffer from any infirmity calling for interference in this writ petition.

4. However, we are not at all impressed by the submissions of Mr. Dhaulta in this behalf. Reason being that it is by now well settled by the Hon''ble Supreme Court, that where engagement of a workman is against a particular project/ Scheme, and after its completion he is disengaged, such an order it is not to be interfered with. [See: Delhi Development Horticulture Employees'' Union Vs. Delhi Administration, Delhi and others, ; Surendra Kumar Sharma Vs. Vikas Adhikari and Another, and M.D., U.P. Land Dev. Corpn. and Another Vs. Amar Singh and Others,

5. In the face of this legal position, in our considered view the Tribunal was not correct in having passed the impugned order which cannot be upheld in any circumstances whatsoever.

6. Faced with this situation learned Counsel for the Respondent submitted that Petitioners No. 2 and 3 carry out different schemes through Petitioner No. 1, sometimes on regular basis and at times under specific scheme(s). As such a direction needs to be issued to them, that as and when in future any such scheme is undertaken by them, in such a situation, claim of his client may be considered for his engagement along with other eligible candidates, of course, in accordance with law. This prayer appears to be innocuous. Ordered accordingly.

7. No other point was urged.

8. In view of the aforesaid discussion, while allowing this writ petition and consequently setting aside the order dated 22.5.1998 in OA No. (D)-16/98, it is ordered that in case if any project/scheme is to be implemented henceforth by the Petitioners through the agency of Petitioner No. 1, in such a situation, claim of the Respondent for his engagement along with other eligible candidates will be examined, of course, in accordance with law, without being influenced by this judgment which is meant only for the limited purpose of disposal of this writ petition. Parties are left to bear their own costs.

9. All interim orders passed from time to time shall stand vacated forthwith.