
(2012) 03 SHI CK 0275
In the High Court Of Himachal Pradesh
Case No : Review Petition No. 153 of 2011

The State of H.P.

APPELLANT

Vs

Miss Beena Chauhan

RESPONDENT

Date of Decision : 23-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0275

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Advocate : Ramesh Thakur, Assistant A.G, for the Appellant; B.S. Chauhan, for the Respondent

Judgement

V.K. Sharma, Judge

1. Reply stands filed. Heard. The application, which is duly supported by an affidavit, is allowed in view of the grounds stated therein. Consequently, the delay in filing the review petition is condoned.

The application stands disposed of.

2. Heard.

3. By means of judgment dated 11.05.2011, passed by this Court, in CWP(T) No. 9199 of 2008, titled Miss Beena Chauhan Vs. State of Himachal Pradesh and others, which is sought to be reviewed in the present petition at the instance of the petitioners-State, it was held as under:-

It is manifest from the mandays chart Annexure R-I, filed on behalf of the respondents that the petitioner, who had initially joined the employment of the respondent-department as Beldar on 1.6.1988, continued as such up to 30.11.1994. Thereafter, she started working as Complaint Attendant w.e.f. 1.12.1994. Though, in the year 1994, she had put in only 31 mandays as Complaint Attendant, thereafter right from the year 1995 up to 2001, she worked for more than 240 days in each calendar year. The records of the case

have been produced in terms of orders dated 8.12.2010, 28.3.2011 and 20.4.2011. A perusal of the same would go to show that in 2002 as well, the petitioner had put in more than 240 days as Complaint Attendant. Thus, from 1995 to 2002, she had completed 8 years continuous service as Complaint Attendant with more than 240 days in each calendar year and was thus entitled to be regularized as such on and with effect from 1.1.2003. However, she has been regularized as Complaint Attendant only with effect from 9.1.2007.

4. Consequently, the petition was allowed in the following terms:-

In view of the above, the petition is allowed with a direction to the respondents/ competent authority to consider the case of the petitioner for regularization as Complaint Attendant retrospectively with effect from 1.1.2003, within three months from the date of production of copy of this judgment by the petitioner and to pay to her difference of wages between that of Beldar and Complaint Attendant within the same time, failing which, interest @ 9% per annum shall also be payable. Needless to say that the petitioner shall also be entitled to seniority in terms of this judgment. Records returned.

5. The main ground pressed into service for review of the judgment dated 11.05.2011, vide para 3 (c) of the petition is as under:-

Because the regularization of a daily waged worker is not automatic on completion of 8 years service with 240 days in each calendar year. This is merely an eligibility criterion for considering daily waged workers for regularization of their services and such regularization has to be done only in accordance with the terms and condition of the policy of the Govt. The Govt. framed and issued a policy in the year 9/2002 and then in 6/2006 for regularization of such daily waged worker who had worked continuously for 8 years with a minimum of 240 days in each calendar year as on 31.03.2000 and as on 31.03.2004 respectively. Since the petitioner did not fall under the policy of 2002 as the petitioner had completed/worked for only 5 years of continuous service with 240 days in each calendar year as Complaint Attendant as on 31.03.2000, therefore, she cannot be considered under the policy of 9/2002. In this view of the matter, the judgment and order dated 11.05.2011 is liable to reviewed in the interest of law and justice.

6. The finding of fact arrived at in favour of the respondent-workman, vide judgment dated 11.05.2011 is that "Thus, from 1995 to 2002, she had completed 8 years continuous service as Complaint Attendant with more than 240 days in each calendar year".

7. According to the petitioners-State under the policy of 6/2006 only those workmen were entitled for regularization, who had completed 8 years continuous service as on 31.3.2004, meaning thereby that the regularization was to take effect on and with effect from 01.04.2004. However, vide judgment dated 11.05.2011, the respondent-workman has been ordered to be regularized as Complaint Attendant w.e.f. 01.01.2003. Thus to this extent, judgment dated

11.05.2011 requires to be reviewed and is accordingly reviewed by substitution of relief clause contained in para 5 of the said judgment, as under:-

In view of the above, the petition is allowed with a direction to the respondents/ competent authority to consider the case of the petitioner for regularization as Complaint Attendant retrospectively with effect from 01.04.2004, within three months from the date of production of copy of this judgment by the petitioner and to pay to her difference of wages between that of Beldar and Complaint Attendant within the same time, failing which, interest @ 9% per annum shall also be payable. Needless to say that the petitioner shall also be entitled to seniority in terms of this judgment. Records returned.

8. It is made clear that the time granted for implementation of the direction, as above by way of review shall be reckoned from the date of this judgment. The petition stands disposed of in the above terms.