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**(2011) 04 SHI CK 0149**  
**In the High Court Of Himachal Pradesh**  
**Case No : CWP (T) No. 6846 of 2008**

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|------------------------------------|----|------------|
| Tota Ram                           | Vs | APPELLANT  |
| H.P. State Pollution Control Board |    | RESPONDENT |

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**Date of Decision :** 06-04-2011

**Acts Referred:**

**Citation :** (2011) 04 SHI CK 0149

**Hon'ble Judges :** Sanjay Karol, J

**Bench :** Single Bench

**Final Decision :** Dismissed

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## Judgement

Sanjay Karol, J.—As agreed these Petitioners are being disposed of by a common judgment.

2. Petitioners have prayed for the following reliefs:

(i) That the Respondent department may very kindly be directed to grant the scale of Rs. 3120/- to the applicant from the date of his service were regularized as Field Assistant-cum-Operator, with all consequential benefits accrued to the applicant, like pay, arrears, etc. alongwith an interest of Rs. 18% P.A.

(ii) That the Respondent department may very kindly be directed to frame the R&P Rules for the post of Field Assistant-cum-Operator.

3. Petitioners were appointed as Field Assistant-cum-Operator some time in the year 1987. Since then they are performing their duties diligently and to the satisfaction of the Respondent employer. They claim that by virtue of the nature of the duties that they are performing they are skilled employees. They operate High Volumes Sampler (Air Monitoring Inst.) and help in vehicular smoke monitoring. They also perform other laboratory work. Their services also stand regularized in terms of office memorandum dated 1.2.1999 in the pay scale of `750 " 1320 which is actually the scale of Class-IV employee. According to the Petitioners they are entitled to the scale of Class-III employee on the parity of

scales given to the Field Assistants engaged by other autonomous bodies. It is also their grievance that they have no promotional avenues.

4. This Court directed the Respondent-board to consider the Petitioners' case in the light of the submissions made by them. From the affidavit dated 18.12.2010 it stands explained that for this purpose a special committee was constituted and as per the report their claims stand rejected. Report of the Committee reads as under:

As per direction of the Member Secretary, HPSPCB the Committee consisting of A.C.(F&A) and L.O. (PCB) examined the matter in respect of the claims of the Petitioners i.e. Sh. Tota Ram and other Field Assistant-cum-Operators in CWP(T) No. 6846/2008 titled Tota Ram v. HPSPCB and Ors. similar matters for: (i) entitlement to higher pay scale and (ii) for their higher promotional avenues.

1. In this context, it is submitted that as per the record of the Board/Muster Roll register etc. it has been observed that the Petitioners were initially engaged as Helpers on prevalent daily wages under "National Ambient Air Quality Monitoring Programme" initiated and assisted by the CPCB for conducting field duty such as assisting in air quality monitoring under the direct supervision of the scientific staff of the Board and were paid daily wages at par with other contemporary Helpers/Class-IV workers engaged by the Board from time to time. The designation of this specific category of Helpers was changed to Field Assistant-cum-Operator in April, 1994 without any change either in work or wage structure. This is also clear from the proceedings of the Screening Committee dated 11-07-1997 in file No. PCB/2/96 Board Staff Recruitment (Copies enclosed at Annexure-I) and Muster Roll register.

Although no regular posts have been sanctioned by the CPCB for these workers against the aforesaid project in any State (as is evident from letter No. PCB-Daily Wages/97590-91 dated 28.04.1997 in file No. PCB/2/96 Board Staff Recruitment and appended at Annexure-II), yet the Board following the State Government's regularization policy for daily wages workers regularized the Petitioners also against vacant posts of Helpers (Class IV) after completion of ten years of continuous service on daily wages against Class-IV post in accordance with the terms and conditions contained in the regularization policy of the GoHP i.e. the Daily Waged workers who are to be regularized shall be put in at the minimum of the time scale of pay payable to the corresponding lowest grade in the government (may kindly peruse condition No. 7 of Annexure "A appended to the aforesaid policy of the GoHP issued vide letter No. PER(AP-II)B(2)-5/86-III dated 11.07.1995 at Annexure "III). Accordingly, the Petitioners were regularized in the pay scale of Rs. 2520-100-3220-110-3660-120-4140 with initial start of Rs. 2620/- as admissible to other Class IV employees of the Board. The designation/nomenclature of these Helpers remained that of a Field Assistant-cum-Operator (Class-IV) in the pay scale of Rs. 2520-4140/- with initial start of Rs. 2620/- i.e. same as those of other Class-IV Helpers. The Petitioner Sh. Tota Ram was regularized w.e.f. 04.05.1998 vide order dated 01.02.1999 on temporary basis.

According to the terms and conditions of the Office Order of regularization, the Petitioners were regularized in the pay scale as is applicable to the post of Helper in HPSPCB which still continue to be the substantive post for Petitioners. The essential qualification for the post of Helper(Class IV) as per R& P Rules is 2nd Class Matric with Science and preferably having experience of working in some reputed laboratory (copy of the R&P rules of the post of Helper is enclosed at Annexure IV). It has also been observed that some of the Petitioners are simple Matriculates and even do not possess the requisite educational qualification as 2nd division Matric which is the essential qualification for Helpers (Class IV).

Also, in the State Board, the Petitioners do not work independently as contended but all of them work under the supervision of the Laboratory Assistants/ Jr. Scientific Assistants/Scientific Officers.

The nature of work performed by different departments/agencies is unique to a particular organization, hence it is practically difficult to establish any equivalence with employees of other autonomous bodies in the State such as HPKVV Palampur in respect of their entitlement for higher pay scale. This is particularly significant when the contemporary Helpers appointed along with Petitioners continue to work as Helper Class-IV in the State Board. It was further examined that the post of Fisheries Field Assistant in the Fisheries Department of H.P. is also a Class-IV post (may kindly peruse the approved R&P of the post of Fisheries Field Assistant in the Department of Fisheries which have been procured and appended at Annexure-V).

2. As regards the issue of further promotional avenues, the officials of this category (Class-IV employees) have higher promotional avenues i.e. they are eligible for promotion for the post of Clerk (Class "III) against 10% recruitment quota as per approved R & P Rules of the post of Clerk (copy appended at Annexure-VI). Also, the promotional avenues of Clerk are up to post of Superintendent Grade-I, which is Class-I post. Further, as per R&P rules of the post of Laboratory Assistant (Class-III) in the Board (copy appended at Annexure-VII), the Helpers/Lab. Attendants are also eligible for promotion as Lab. Assistant against 100% promotion quota subject to availability of posts and candidates.

Therefore, the Petitioners are rightly placed in Class-IV category on account of their initial engagement against Class-IV category in view of GoHP policy mentioned above instead of the claimed Class-III category. Further, the Petitioners already have two types of promotional avenues as per R&P Rules of Class III category, i.e. of Clerk and Lab. Assistant as elaborated above.

This report is submitted for perusal and further necessary action please.

(Emphasis supplied)

5. Mr. Sanjeev Bhushan, earned Counsel for the Petitioners invited my attention to certain documents to show that Petitioners' appointment was not in the

category of Helpers but as Field Assistants.

6. It is true that Petitioners were appointed as Field Assistants and not Helpers. But however it stands explained that there is no substantive post against which Petitioners, who were initially appointed on daily wage basis under the National Ambient Air Quality Monitoring Programme could be regularized as Field Assistant-cum-Operator. Even though the post in question carried the nomenclature of Field Assistant-cum-Operator but none the less substantive post was that of a Helper which is a Class-IV post. In fact Petitioners' regularization was also against temporary post under the National Ambient Air Quality Monitoring Project with the Respondent/Board.

7. In my considered view Respondents have already protected and safeguarded Petitioners' interest in regularizing their services against a substantive post of Class-IV employee.

8. As per the affidavit filed by the Respondents, Petitioners have two streams of avenues for further promotion. For the post of Clerk and Laboratory Assistant, both Class-III posts, there is 10% quota prescribed under the R&P Rules. Petitioners thus constitute a feeder category to the said two promotional posts.

9. Petitioners claim for payment of salary in the pay scale of Class-III employees cannot be said to be based on any substantive right or legal foundation. Claim of parity, based on rules of another autonomous body, in the absence of any material to show similarity with regard to the eligibility, nature of duties, responsibilities etc. also does not even merit consideration. No legally enforceable right of the Petitioners stand violated. Consequently present petitions devoid of merit stand dismissed.