
(2014) 12 DEL CK 0371
In the Delhi High Court
Case No : W.P.(C) 3909/1992

Vasdev Sachdeva

APPELLANT

Vs

J & K Horticultural Produce MKT & Processing
Corpn. Ltd.

RESPONDENT

Date of Decision : 02-12-2014

Acts Referred:

Citation : (2014) 146 DRJ 577

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : S.S. Dahiya and L.K. Dahiya, Advocates for the Appellant; V.K. Dhar, Advocates for the Respondent

Judgement

Hima Kohli, J.—The present petition has been filed by the petitioner praying inter alia that the respondent/Jammu & Kashmir Horticultural Produce Marketing & Processing Corporation Limited be directed to regularize his services on the post of Marketing Assistant w.e.f. 13.10.1987, the date of his appointment, on a regular basis and to pay him the same salary and allowances as are being paid to similarly placed employees, along with consequential benefits.

2. Notice was issued on the present petition on 5.11.1992 and Rule was issued on 28.9.1993. On 3.11.1999, learned counsel for the respondents had stated that the respondent/management was and is willing to regularize the services of the petitioner/workman but, after giving the joining report, he did not cooperate in completing the other formalities as per the general order dated 3.5.1995, whereby the regularization of the petitioner's services along with others has been made by the respondent/ management. Counsel for the petitioner had responded to the above by stating that the petitioner would report to duty and cooperate in completing all the formalities for the purpose of regularization of his services and he requested that the respondent ought to pay the same emoluments to the petitioner as were being paid to other similarly placed workers.

3. In view of the aforesaid submission made by the learned counsel for the petitioner, the petitioner was granted liberty to report to duty within ten days and co-operate with the respondent/ management in completing the formalities for the purpose of regularization of his services. With the aforesaid observations, the matter was adjourned to 31.1.2000.

4. On 31.1.2000, learned counsel for the respondents had informed the Court that the petitioner had joined duty on 4.11.1999 and had given his joining report and his attendance was being duly marked. However, it was pointed out that the petitioner had not completed the formalities as required to be undertaken in terms of the order dated 3.5.1999, which statement was disputed by the counsel for the petitioner. Thereafter, the petition remained lingering for one reason or the other.

5. On 20.2.2002, it was finally recorded that as Rule had been issued in the writ petition on 28.9.1993, the matter be listed in the category of "regular matters" in due course.

6. On 15.11.2006, when the petition came for arguments, learned counsel for the petitioner had stated that he did not wish to pray for regularization and as a result, the said prayer was deleted. As a matter of fact, since all the remaining prayers were consequential in nature and emanated from the first relief of regularization prayed for by the petitioner, in view of the aforesaid statement, the writ petition was rendered infructuous on said date. However, at the request of counsels for the parties, who had sought time to file a written synopsis, the matter was renotified for 15.12.2006. Finally, on 2.7.2008, the writ petition was dismissed in default.

7. On 19.1.2009, the petitioner filed an application for seeking restoration of the writ petition, which was allowed, vide order dated 17.8.2009, and the petition was restored to its original position. The petition came to be dismissed in default for a second time on 15.11.2011, as none had appeared for the petitioner. The petitioner yet again filed an application for restoration of the petition, that was listed on 23.1.2012 and notice was issued to the respondents. Vide order dated 10.7.2012, the restoration application was allowed and the petition was restored to its original position.

8. On 22.11.2012, after going through the records, it was noticed that vide order dated 3.5.1995, the services of the petitioner had been regularized in the pay scale of Rs. 750-940/- w.e.f. 1.4.1995 as a Tally Clerk Grade-I. However, learned counsel for the respondents had submitted that the petitioner did not complete the requisite formalities pursuant to the order dated 3.5.1995 and he did not agree to join duty as a Tally Clerk Grade-I, the post on which he was regularized. He further pointed out that nothing survived for a decision in the present petition in view of the statement made by the learned counsel for the petitioner on 15.11.2006 to the effect that the petitioner did not press for regularization.

9. After hearing the counsels for the parties, the submission of the counsel for

the petitioner was recorded to the effect that his client who was about 45-50 years of age at that time and was ready to join the duty as a Tally Clerk, and if he would be granted permission by the respondent to join the said post, he would not claim the back arrears from 1.4.1995 onwards and would claim notional promotion for the gap years. In view of the above submission, learned counsel for the respondents was directed to obtain instructions from the management.

10. On 14.8.2014, counsel for the respondents informed the Court that the respondent/management was not agreeable to the aforesaid suggestion that had fallen from the counsel for the petitioner. He had further pointed out that in view of the submission made by the counsel for the petitioner on 15.11.2006, nothing further survives for adjudication in the present petition.

11. Having perused the prayers made in the present petition and taking into consideration the fact that on 15.11.2006 learned counsel for the petitioner had stated that he did not wish to press the relief for regularization, which prayer was accordingly deleted, the remaining prayers being only consequential in nature, as on date, nothing further survives for adjudication in the present petition. The writ petition is accordingly disposed of having been rendered infructuous.

12. Needless to state that if the petitioner proposes to seek his legal remedies against the respondent/management based on the letter dated 3.5.1995, whereunder he was granted regular appointment to the post of Tally Clerk Grade-I, he shall be entitled to do so in accordance with law.

13. The petition is disposed of, while leaving the parties to bear their own costs.