

(2013) 10 SHI CK 0027
In the High Court Of Himachal Pradesh
Case No : CWP No. 10650 of 2012-E

Vikrant Katoch and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 17-10-2013

Acts Referred:

Citation : (2013) 10 SHI CK 0027

Hon'ble Judges : A.M. Khanwilkar, C.J.;Kuldip Singh, J

Bench : Division Bench

Advocate : A.K. Vashishta, for the Appellant; Sandeep Sharma, ASGI for Respondent No. 1, Mr. K.D. Sood and Mr. Sanjeev Sood, Advocate for Respondents No. 2 and 3, for the Respondent

Final Decision : Dismissed

Judgement

A.M. Khanwilkar, C.J.—Heard counsel for the parties. Three reliefs have been claimed in this petition. The first relief is to direct the respondents to frame an equitable policy for regularization of the petitioners against the post held by them or on any other equivalent post. As regards this relief, the petitioners are free to make representation to the respondent-Authority. As of today, there is no policy of regularization. The grievance of the petitioners that the petitioners have been appointed on contract basis from year to year deserves to be stated to be rejected because the Director of the respondent has been empowered to employ teaching supporting staff in laboratories or technical and skilled workmen paid from contingency from time to time for not more than one year on such remuneration as may be decided by the Board. In furtherance of Statute 17(8), concerned advertisement was issued in the year 2012 inviting applications from eligible candidates for contract recruitment on or before 10th July, 2012. As a matter of fact, the petitioners, as stated on affidavit by the respondents, are ineligible and do not possess basic qualification except petitioner Vikrant Katoch son of Prem Chand. As regards the said petitioner, he is, admittedly, over aged. The age criteria has been prescribed in consonance with the provision contained

in the Act of 2007 and the Rules framed there-under. The petitioners can have no vested rights in continuing on contract basis from year to year nor can insist for regularization as they were not appointed after adhering to the regular recruitment process for regular appointment. As aforesaid, the petitioners are free to make representation to the respondents to formulate policy for regularization. In any case, the petitioners, who do not possess essential qualification, cannot be regularized.

2. The second relief, claimed in the petition, is to direct respondents not to replace the petitioners by other contract appointees. For the reasons, already recorded, the petitioners cannot seek such direction merely because they have been working on contract basis in the past. Petitioners having been found to be ineligible both on the ground of lack of essential qualification and also exceeding age limit, cannot insist for continuation on contract basis dehors the qualification provided in the Act of 2007 and the Rules framed there-under.

3. The third relief, claimed in the petition, is to direct the respondents to refrain from issuing standing instructions in derogation to the rights of the petitioners. This relief, in our opinion, is ill-advised.

4. Counsel for the petitioners sought to rely on the decision of the Apex Court in *Piara Singh* while clearly over-looking that the same has been considered by the Constitution Bench in the case of *Secretary, State of Karnataka and Others Vs. Umadevi and Others*, . As stated by the counsel for the respondents, the period specified in the advertisement has already expired. Even for this reason, no indulgence is warranted in exercise of writ jurisdiction. Taking any view of the matter, therefore, no interference is warranted and the petitions are dismissed.