
(2011) 02 SHI CK 0052
In the High Court Of Himachal Pradesh
Case No : C.W.P. (T) No. 6033 of 2008

Vir Pal

APPELLANT

Vs

H.P. University

RESPONDENT

Date of Decision : 28-02-2011

Acts Referred:

Citation : (2011) 02 SHI CK 0052

Hon'ble Judges : Surinder Singh, J

Bench : Single Bench

Judgement

Surinder Singh, J.—The Petitioner has mainly sought the following reliefs by way of filing the Original Application before the Erst-while Tribunal:

(i) This application/petition may be allowed and the entire record and proceedings may be called for and perused and the order of dismissal of the Petitioner may be quashed and the order passed in the appeal may also be quashed and the Respondent may be ordered to take back the Petitioner in service and treat him in service as if he had not been dismissed and he may also be given all consequential benefits of service like, arrears of salary, allowances, seniority etc.

(ii) Costs of the petition may be awarded in favour of the Petitioner.

2. After the abolition of the H.P. State Administrative Tribunal, the matter was transferred to this Court and is registered as CWP(T).

3. Heard and gone through the record.

4. The Petitioner was a clerk in the Himachal Pradesh University. He was charge-sheeted for misappropriation of funds and misconduct. After holding an inquiry, he was held guilty and was dismissed. Against his dismissal, he filed an appeal before the "Executive Council" on 2.8.1990. The matter remained in limbo, ultimately, Petitioner filed CWP No. 703 of 1990, in this Court vide order dated 24.12.1990 a direction was issued to the appellate Authority to dispose it of

within three months. It is alleged since nothing was heard for three months as such he filed Contempt petition No. 18 of 1991 wherein Respondent-University came-up with the plea that the matter stands already decided by the appellate Authority within the statutory period on 19.12.1990.

5. In fact, it reveals that the matter was placed before the Executive Council as Item No. 34 (Annexure- F) which was shown as "considered and rejected" . According to the learned Counsel for the Respondent, it was communicated to the Petitioner but however, no detailed order containing reasons was sent to him.

6. Admittedly, Petitioner was not given personal hearing by the appellate Authority which, prima facie is against the principles of natural justice. The Petitioner should have been afforded an opportunity of hearing. Further I also find that the final order without reasons is wrong and not interceded by law. The party aggrieved must know as to what prevailed with the appellate Authority for rejecting the appeal and material was considered by it.

7. For the foregoing reasons, order of rejection of the appeal Annexure-F passed by the Appellate Authority is hereby set aside.

8. Further, it is directed that "Executive Council", before whom the appeal was filed, shall afford an opportunity of hearing to the Petitioner in support of his appeal. In case, if they do not have now any jurisdiction to entertain the appeal, the record of the appeal along with the grounds of appeal shall be sent by it to the competent authority having jurisdiction to hear and decide the said appeal. The competent Authority shall afford an opportunity of hearing to the Petitioner in support of the contention raised therein.

9. The Petitioner shall be present before the Registrar on 21.3.2010 who shall inform him in writing to appear before the Executive Council, on the date so fixed. The executive Council shall thereafter dispose of the matter within two months by a speaking order. In case, the Executive Council does not have the jurisdiction to hear the appeal, in that event, the entire record of the appeal shall be sent by it on the first hearing to the competent authority with a direction to the Petitioner to appear before the competent Authority and the said Competent Authority shall dispose of the matter by a reasoned order within two months, after affording an opportunity of being heard to the Petitioner.

The matter stands disposed of accordingly. Copy of this judgment be given dasti to the parties.